

50/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 232/2004.....

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

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

1. Orders Sheet. OA-232/2004.....Pg. 1.....to 3.....
2. Judgment/Order dtd. 19/05/2005.....Pg. 1.....to 3..... Re: appeal
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 232/2004.....Pg. 1.....to 16.....
5. E.P/M.P.....Pg. 1.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S. submitted by the Respondents.....Pg. 1.....to 6.....
1 to 3
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Org. App./Miss Petn/Cont. Petn/Rev. Appl.

232/04

In O.A.

Name of the Applicant(s)

Hemanta DeKa

Name of the Respondent(s)

H. O. I. Form

Advocate for the Applicant

Abdul Khalique

Counsel for the Railway/C.G.S.C.

M. H. Ahmed

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

6.10.04.

This application is in form
is filed C.F. for its
admission vide IP-20
No. 2104/114725
Dated 1.10.04

Dy. Registrar

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

Hon'ble Mr. K.V. Prahladan, Admini-
strative Member.

Heard learned counsel for the
parties.

Notice to the Respondents on
Admission. The Respondents may be
specifically informed that the matter
may be disposed of at the Admission
stage itself. Stand over to 18.11.04.

Member

Vice-Chairman

1m

10.12.04.

Present: Hon'ble Mr. Justice R.K. Batt
Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administra-
tive Member.

Mr. A. Khalique, the learned counse
for the applicant is present.

Service report is awaited. Stand
over to 18th January, 2005.

Member

Vice-Chairman

1m

Steps taken with
envelops

file copy order dated
6/10/04

Notice & order dt. 6/10/04
sent to D/section for
issuing to resp. No.
1, 2 & 3, by regd. A/D
post. 19/10/04.

18.01.05.

The learned counsel for the applicant is present. Service is still awaited. The applicant may in case it is so desired takes fresh steps for service. Stand over to 14th March 2005.

K. D. Sharma
Member

R. -
Vice-Chairman

lm

14.2.2005

Present : The Hon'ble Mr. M.K. Gupta,
Judicial Member.

None appears. Adjourned to 15.3.2005.

J. C.
Member (J)

mb

16.2.05.

None appears for the parties. Service report is still awaited. Adjourned to 1.4.05.

K. D. Sharma
Member(A)

J. C.
Member(J)

lm

01.04.2005

At the request of Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the respondents adjourned to 2.5.2005. Written statement, if any, in the meantime.

V. K. Sharma
Vice-Chairman

mb

2.5.05.

At the request of learned counsel for the applicant case is adjourned to 19.5.05.

K. D. Sharma
Member

V. K. Sharma
Vice-Chairman

lm

19.5.2005

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order.

Member

9-12-04
S/R - awarded.
S

No steps.

12/2/05.

11.2.05

Service Report not yet been received back from the Respts.
No fresh steps has been taken by the applicant for revision. The same to the Respts.

31-3-05

S/R - awarded

11.4.05

W/S filed by the Respt. Nos. 1 to 3.

Ans.

Notice duly served on Resps Nos- 1, 3.

12/5/05

W/S - Lg - given - Bited.

Office Notes	Date	Order of the Tribunal
<p>27.5.05</p> <p>Copy of the Judgt has been sent to the Oftee. for issue of the line to the applicant as well as to the "Add, C.G.S.C. by law." Hh</p> <p>M. A. Ann C. A. C 27/5</p>	<p>19.5.2005</p> <p>bb</p>	<p>Hearned learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI BENCH.

O.A. No. 232 of 2004.

DATE OF DECISION: 19.05.2005

Sri Hemanta Deka

APPLICANT(S)

Mr. A.Khaleque

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. M.U.Ahmed, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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

Judgment delivered by Hon'ble Vice-Chairman.

Wang

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 232 of 2004.

Date of Order: This, the 19 th Day of May, 2005.

HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

Sri Hemanta Deka
S/o Late Moina Ram Deka Ex-MM (BCR)
SRO, 'GH' Divn, R.M.S. Rangia
a resident of Village Niz Madartola
P.O: Baihata Chariali
District: Kamrup.

..... Applicant.

By Advocate Mr. A. Khaleque.

- Versus -

1. Union of India
Represented by the Secretary
Department of Posts
Government of India
New Delhi.
2. The Chief Post Master General
Assam Circle
Guwahati-781001.
3. The Senior Supdt. of R.M.S.
Guwahati Division, Guwahati.

..... Respondents.

By Mr.M.U.Ahmed, Addl.C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J.(V.C.)

The applicant applied for compassionate appointment on the ground that the applicant's father Late Moina Ram Deka a Mailman (B.C.R.) under Senior Record Officer, R.M.S., Guwahati Division at Rangia died while in service in 5.10.2001. The said application was rejected by the Circle Selection Committee held on 24.1.2003 which was conveyed vide communication dated 24.3.2003 at Annexure-E stating that there is no vacancy in any cadre. The applicant then

gpe

submitted representations (Annexure- F & G) to the second respondent i.e. Chief Post Master General. Since there is no response this application is filed.

2. Respondents have filed their written statement. Nothing is stated in the written statement about the filing of Annexure F & G representations. Only attempt made therein is to say that the applicant is not entitled to compassionate appointment. Mr. A. Khaleque, counsel for the applicant submitted that third respondent did not say that the applicant is not eligible for compassionate appointment and that the impugned order only stated that there is no vacancy for giving compassionate appointment. Counsel for the applicant placed before us a communication No.Staff/16-CSC/2004 dated 13.5.2005 passed by the Assistant Postmaster General (Staff), O/o the Chief Postmaster General, Assam Circle, Guwahati giving compassionate appointment to the post of PA Cadre to 3 persons, Postman Cadre to one person and Group 'D' to another person and submitted that all these appointments were made with reference to the persons who died in employment subsequent to the death of applicant's father. He also pointed out that Smt. Sarada Bala Baishya was given compassionate appointment to Group 'D' post in the remaining vacancy of 2002 Grade 'D' Cadre alongwith the post of Guwahati Division diverted to CO/Guwahati. Mr.M.U.Ahmed, Addl.C.G.S.C. submitted that the applicant cannot be given posting of his choice and that he wanted appointment only in a Group 'D' post. Counsel for the applicant submits that the applicant wanted compassionate appointment to any post to which he is entitled.

3. Having considered the matter we are of the view that impugned order is not a satisfactory one. However, since the applicant has



submitted Annexure - F & G representations before the second respondents, which has not been denied by the respondents in their written statement, we direct the second respondent to consider all these matters projected by the applicant and to pass a reasoned order on the representations made by the applicant and rejected by the third respondents. This will be done within a period of three months from the receipt of a copy of this order.

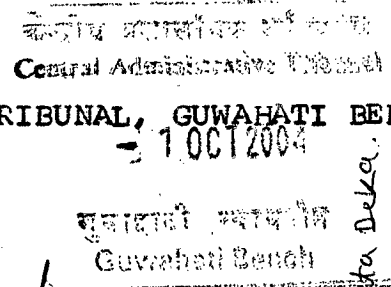
The Original Application is disposed of as above.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE CHAIRMAN

BB

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI.



Q. A 232/04

Sri Hemanta Deka -----Applicant.

-Vs-

Union of India & others --Respondents.

Synopsis of the original application filed by
Sri Hemanta Deka, ----- Applicant.

1. That applicant's father worked as a Mailman under the Senior Supdt. of Post office R.M.S. Guwahati Divn, Guwahati and he died of Cancer on 5-10-2001 after completing 25 yrs. service.
2. That on 19.12.01 the applicant and his mother applied for appointment of the applicant on Compassionate ground
3. That on 24-3-2003 the authority gave a reply expressing in ability to appoint the applicant on compassionate ground
4. That on 7.6. 2004, while the applicant's petition was pending before the authority, they appointed another woman namely smt. Sarada Bala Baishya, whose husband died later than applicant's father and who applied later than the applicant.
5. That on 16.8.2003 and 20.1.2004 the applicant filed another two representation requesting them to appoint this applicant on compensation ground. Those representation is still pending.

The applicant by this O.A. prays before the Tribunal to intervene in the matter and pass necessary orders directing the authority to appoint the applicant in a job as per his qualification on compensation grounds.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI.

10
Filed by the Applicant
Shrough
Abdul Khaleque
Advocate
1.10.04

An application under section 19 of the Central
Administrative Tribunal Act 1985.

O.A. No. 232 /2004.

F I L I N G S L I P

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Petition with Verification	1 to 8
2.	Annexure -- A.	9
3.	Annexure -- A1	10
4.	Annexure -- B	11
5.	Annexure -- C	12
6.	Annexure -- D	13
7.	Annexure--- E	14
8.	Annexure--- F	15
9.	Annexure -- G	16

Filed by -

Abdul Khaleque
A. Khaleque, 1.10.04
Advocate.

Sri Hemanta Deka

IN THE CENTRAL ADMINISTRATIVE TRIBUNEL: GUWAHATI BENCH :
GUWAHATI.

Filed by
Sri Hemanta Deka.
Through
Abdul Khabab
Advocate
1-10-04.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT)

O.A. NO. 232 /04.

Sri Hemanta Deka

son of Late Moina Ram Deka, Ex- MM (BCR)

SRO, 'GH' Divn, R.M.S. Rangia,

a resident of Village Niz Madartola,

P.O. Baihata Chariali, District- Kamrup.

-----Petitioner.

-Versus-

1. Union of India, represented by the
Secretary, Deptt. of Post, Govt of India,
New Delhi.
2. The Chief Post Master General
Assam Circle, Guwahati- 781001
3. The Senior Supdt. of R.M.S.
Guwahati Divn, Guwahati.

-----Respondents.

1. Particulars of the order against which the application
is made.

The application is made against the following order :-

Contd....2.

Hemanta Deka,

12

(2)

- (i) Order No. B-2/7/17/Ch-V
- (ii) Date - 24-3-03
- (iii) Passed by Respondent No.3,
- (iv) Subject in brief : Non-consideration of
appointment of petitioner
on companionate Grounds.

2. Jurisdiction of the Tribunal :

The petitioner declares that the subject matter against which he wants redressal is within the jurisdiction of this Tribunal as the petitioner and the main respondents against whom the relief is sought are within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The applicant further declares that the application is within the limitation prescribed under section 21 of the Central Administrative Tribunal Act.

4. Facts of the Case :

- 4.(i) The applicant's father Sri Maina Ram Deka worked as a Mailman (B.C.R.) under Senior Record officer R.M.S., Guwahati Division at Rangia and died of cancer while in service after completing 25 years of service.

(Copy of the Death certificate and Medical Certificate is annexed herewith and marked as Annexure- "A" and "A-1").

Contd....3.

5/10/01
Hemanta Deka.

(3)

4.(2) The applicant spent all the belonging of the family for the treatment of his father and after his father's death the only source of income of the family was stopped.

4.(3) That the applicant who has passed the Higher secondary examination, filed an application before the respondents for appointing him in a job as per his qualification for survival of his family. The applicant's mother Smt. Uttara Deka also filed a petition requesting the respondent to appoint the applicant in any job of the Department.

19.12.01
(Copy of the applications and the qualification Certificate is enclosed herewith and marked as Annexure "B", "C" and "D" respectively.

4.(4) The applicant receiving no reply from the respondent submitted another 2 representation and in response to his representations the respondent No.3 gave a reply vide letter No. B-2/7/17/Ch-V dated 24.3.03 whereby the respondent refused to appoint the applicant on compassionate ground.

(copy of the said letter is annexed herewith and marked as Annexure- "E").

4.(5) That the applicant after receiving the letter from the respondent No.3 filed another two representation on 16.8.03 and 20.1.2004 requesting them to appoint him in a job but the applicant has not received any reply from the respondent.

contd....4/p.

Hemanta Deka.

(4)

(Copy of the representation are enclosed as Annexure- "F" and "G").

- 4.(6) That the applicant begs to state that while the petition of the applicant (for appointment on compassionate ground) was pending before the respondent, the respondent, most arbitrarily and a discriminatory attitude appointed Smt. Sarada Bala Baishya Wife of Late Kamala Kanta Baishya, who worked in the same office of the respondent and died on 29.10.2001 (after the death of applicant's father) leaving aside the case of the applicant. The said Smt. Sarada Bala Baishya is appointed on 7.6.04 and posted at the Postal Training Centre at Uzanbazar, Guwahati-1.
- 4.(7) That the applicant begs to submit that the respondents should have consider the case of the applicant first, as his father died earlier, but taking a most bias and discriminatory attitude the respondent consider the case of a person who died later than the applicant's father.
- 4.(8) That the applicant begs to submit that the applicant's father served the respondent most deligently for long 25 years and he died of Cancer and as per the provisions of the relevant rules the applicant's case should have been considered specially as a "Cancer Patient's case.

Contd-----5/p.

Hemanta Deka.

- 18
- 4.(9) That the applicant begs to submit that applicant's father was suffering from Cancer and all his belonging were spent on the treatment of his father and the applicant's family and at his death the only source of income of the applicant's family has been stopped and the applicant is suffering much hardship in ~~the~~ maintaining his family and as per the provisions of the welfare measure of the respondent's Department the applicant is entitled to get a job on compensonate grounds like other cases of the department.
- 4.(10) That the applicant has passed the Higher Secondary examination and he is competent and qualified enough to get a Group "C" job in the respondent's department.
- 4.(11) That the applicant beg to state that there are good number of vacancies lying under the respondent wherein the applicant can be appointed by the respondent. The respondent during the pendency of the applicant's case appointed several person on compassionate ground including Smt. Sarada Baishya.
- 2
- 4.(12) That the petitioner begs to state that the respondents have acted illegally and arbitrarily in appointing a person, whose husband died later than the applicant's father and who applied for appointment on compensonate ground later than the applicant.

Contd---6/p.

Hemanta Deka .

(6)

5. GROUND FOR RELIEF WITH LEGEL PROVISIONS

- 5.(1) The act of respondent (not appointing the applicant on compossionate grounds) violates the rights under Article 16 of the constitution of India.
- 5.(2) That the actof respondent appointing a person on compensionate grounds which came-up much later than the case of the applicant is against the Principle of natural justiee and the applicant has a right to get preferance as he applied much earlier.
- 5.(3) That the applicant is entitled for special consideration on appointment on compassionate ground as a special "Cancer Patient's" case as per the Welfare measure of the respondents' Department.
- 5.(4) That the respondents illegally and arbitrarily rejected the case of applicant for appointment on compensionate grounds, and depriving the applicant's family from getting the due benefit from the respondents.

6. DETAILS OF REMADIES EXHUSTED :

The applicant declares that he availed of all the remedies available to him under the relevant rules.

7. MATTER NOT PENDING BEFORE ANY OTHER COURTS:

The applicant declares that the matter regarding the appointment of the applicant on compensionate ground has not been made to any other Court of law or

contd---7/p.

Humanta Deka ,

any other authority or any other Bench of the Tribunal. The applicant further declares that the present petition is specifically for appointment on compassionate ground.

8. RELIEF SOUGHT

- 8.(1) The respondents may be directed to appoint the applicant in any Group "C" post, as a special " Cancer Patient's " case, on compassionate ground, by relaxing the normal Rules.

9. INTERIM ORDER IF PRAYED FOR :

No interim order is prayed for.

10. Particular of Bank draft in respect of application fee

No. of I.P.O. :- 204 114725

Name of issuing Post Office :- Guwahati G.P.O

Date of issue of Postal Order :- 1.10.04

post office at which payable :- Guwahati G.P.O.

11. LIST OF ENCLOSURE :

- 11.(1) Copy of application dated/9/12.2001, praying for appointment on compassionate ground,
- 11.(2) Copy of application for appointment by the applicant,
- 11.(3) Copy of Educational qualification.
- 11.(4) Copy of death certificate
- 11.(5) Copy of Medical Certificate

contd--8/p.

Hemanta Deka.

- 11.(6) Copy of letter issued by respondent No.3 dated 24-3-03.
- 11.(7) Copy of appeal by the applicant .
- 11.(8) Copy of another representation by the respondent.

V E R I F I C A T I O N

I, Sri Hemanta Deka Son of Late Maina Ram Deka aged about 24 years, by religion Hindu , a resident of Village Nizmodertola, P.O. Baihata Chariali, District- Kamrup do hereby verify that the statement made in paragraph 4.1 to 4-7 are true to my knowledge and those in paragraph 4.8 to 4.11 are believe to be true on legal advice and that I have not suppressed any material facts.

And I sign this Verification on this 1st ^{October} ~~th~~ day of ~~September~~, 2004 at Guwahati.

Sri Hemanta Deka .
1-10-04
Signature.

Form No. 6
পৰৱৰ্তী নং

Sl. No. 0056092
ক্রমিক নং

Annexure 'A'



GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেৱা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্ৰমাণ পত্ৰ)

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

This is to Certify that the following information has been taken from the original record of Death which is in the register for.....
Registration unit of..... of District..... of the State of Assam.

ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য ভূসম ৰাজ্যৰ----- জিলাৰ----- খণ্ডৰ/
পৌৰসভাৰ----- মৌজাৰ অন্তৰ্গত----- পঞ্জীয়ন গোটৰ পঞ্জীয়ন মূল অভিলেখৰ পৰা
সংগৃহীত কৰা হৈছে।

Name/নাম : Late Maima Ram Deka. S/o Late Mohan ch Deka

Sex/লিংগ : Male

Date of Death/মৃত্যুৰ তাৰিখ : 05.10.2001

Place of Death/মৃত্যুৰ স্থান : vill. Nizamdaritola. P.O. Baihala. Kamrup, Assam.

Registration No./পঞ্জীয়ন নং : 167

Date of Registration/পঞ্জীয়নৰ তাৰিখ : 15.10.2001

Signature of issuing authority/নিৰ্গত কৰ্তৃক স্বাক্ষৰ
Designation/পদবী
Date/তাৰিখ

[Handwritten signature and stamp]

Stamp Sig. of Chief Registrar/মুখ্য পঞ্জীয়কৰ চহীৰ চাপ

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

[Official stamp and signature]

Certified to be true copy
[Signature]
19/10/01

Annexure - A1

DR. B. BARUAH CANCER INSTITUTE
Guwahati - 781016

Name : Maina Ram Deka
Age : 50
Sex : Male

Hospital No. : 81202
Date :30.12.2001

Certified that Sri Maina Ram Deka of Vill.- Nijmadertola, P.O.- Baihata Chariali, Dist.- Kanrup, Assam attended the O.P.D. of Dr. B. Baruah Cancer Institute on 5.01.01.

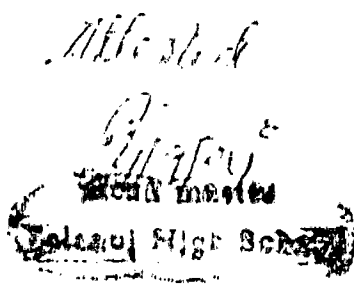
He was diagnosed as Cancer of the Laryngopharynx and was given radiotherapy treatment from 18.01.01 to 02.03.01 as an out-door patient.

He developed respiratory distress and was admitted on 14.09.01 and emergency tracheostomy was done. He was discharged on 21.09.01 with advice for periodical check-up.



Superintendent
Dr. B. Baruah Cancer Institute
Guwahati

Superintendent (Admn.)
Dr. B. Baruah Cancer Institute
Guwahati-16



Artified to be
true copy
Deer
Adm

Annexure-B°

To

The Chief Postmaster General
Assam Circle, Guwahati 781001

19.12.01

Through the SSRM 'GH' Division, Guwahati 781001

**Sub: Request for appointment on compassionate ground under
Relaxation of Normal Rules.**

Sir,

With humble submission I like to submit the following few lines for favour of your kind and sympathetic consideration.

That sir, my husband Late Moina Ram Deka, Ex-MM (BCR) under SRO RMS 'GH' Division, Rangia expired on 05-10-2001 after protracted sufferings from Cancer leaving behind our family with a burden of huge Debt caused by prolonged treatment.

That sir, my husband has left behind three children including two daughters with me all below 20 years of age at the time of his death.

That sir, the small amount received as DCRG benefit after his death was exhausted for meeting up the debt etc.

That sir, my family is not having any income other than the meagre amount of Family Pension to maintain my family.

That sir, with this meagre income it has become unbearable for me to maintain the family, not to speak of getting my daughters married in the near future.

That sir, under the circumstances mentioned above, I earnestly request your honour to be kind enough to extend a helping hand by according appointment of my son Sri Hemanta Deka to any post as deem fit proper on compassionate ground under Relaxation of Normal Rules for which act of kindness I alongwith my family will remain ever grateful to you.

With profound regards.

Yours Faithfully,

শ্রী উত্তরা দেকা

(Smt Uttara Deka)

W/O Late Moina Ram Deka

Ex-MM (BCR)

SRO RMS 'GH' Dn, Rangia

Date: 19/12/2001

Enclor- Application of
Sri Hemanta Deka

Certified Blue Copy

DRG
Adv

(Copy)

Annexure-"C"

To,

19.12.01

The Chief Post Master General
Assam Circle, Guwahati, 781001

Through the SSRM, "GH" Division
Guwahati-1.

Sub :- Prayer for appointment on compassionate
grounds under relaxation of normal Rules.

Sir,

Most humbly and respectfully I beg to state that my father Late Maina Ram Deka, worked as a ^MMail Man under SRO, RMS Guwahati Division, Rangia and he died of Cancer on 5.10.2001 after protracted suffering of Cancer, leaving behind our family with a burden of huge debt caused by prolonged treatment.

That I am the only son and I have passed the Higher Secondary Examination and I am competent to do any Group "C" job of your Department.

That Sir at the death of my father our only source of income has been stopped and we have no source of livelihood. We are now running in extreme financial hardship. That my mother Smt. Uttara Deka also files an application requesting you to appoint me in any job under your disposal.

That Sir, my father served you for long 25 years with much satisfaction of the authority.

I, now therefore request you kindly to consider my case sympathetically and to appoint me in any job as per my qualification and ability.

And for this act of your kindness my ruin family will be saved.

Yours faithfully,

Sd/-

(Sri Hemanta Deka)

Vill- Nizmadertola,
P.O. Baihata Chariali,
Dist- Kamrup.

*Certified true
Copy
Huzar
Huzar*

Book No.— 20

Sl. No.—1944

OFFICE OF THE PRINCIPAL
**BEZARA HIGHER SECONDARY
SCHOOL**

P. O.— Bezara, Dist.— Kamrup (Assam)

No. Bcz/1944

Date—27-6-2000

This is to certify that Sri Nemanta Deka
was a Regular / Private student of H.S. Arts / Science
Stream of this school during the session 1998-2000

He / She appeared at and passed the H.S. Arts / Science
(Group A, B) Final Examination of Assam Higher Seco-
ndary Education Council under Roll 730 No A - 18
in the year 19 2000 and was placed in the 3rd Division.

I wish him / her all success in life.



Attested

21/5/02

Principal

Bezara H.S. School

27/6/2000
Principal,
Bezara H. S. School
Chow.

Certified to be true
Copy

27/6/2000
H.S.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SR. SUDT. RMS 'GH' DN.
GUWAHATI-781001.

No. B-2/7/17/Ch-V,

Dated at Guwahati-1, the 24-03-2003.

To,

1. Sri Paban Chandra Saloi
S/O Late Mahendra Chandra Saloi Ex SGMM.
Vill.- Maniari.
P.O - Barkha (Changari). Dist.- Kamrup (Assam).
2. Sri Utpal Baruah
S/O Late Rajendra Nath Bezbaruah Ex, HMG
Vill - Gamariari
P.O - Kalthakuchi. Dist.- Nalbari (Assam).
3. Sri Diganta Kumar Das
S/O Late Mukanda Ram Das Ex, SGMM.
Vill - Gurkuchi
P.O - Rangia. Dist.- Kamrup (Assam).
4. Sri Mausham Sonwal
S/O Late Khurendra Nath Sonwal Ex, SGMM.
Vill - Birubari
Guwahati - 781016.
5. Sri Animesh Deb
S/O Late Monomohan Deb Ex, HSG II SA
C/O Sri Radha Gobinda Saha
Vivekananda Path, Guwahati - 781016.
6. Sri Anupam Das
S/O Late Amarendra Kumar Das Ex, HSG II SA
Srikanta Dutta Path
Odalbakra, Guwahati - 781016.
7. Miss Jeevaline Wahlong
S/O Late Johi Kyndiah Ex, SGMM
C/O Meld Wahlong
Lower Lamavilla, Shillong - 793002.
8. Sri Hemanta Deka
S/O Late Maina Ram Deka Ex, SGMM.
Vill - Niz Modartala (Sialmara)
P.O - Baihata Charali. Dist.- Kamrup (Assam)

Sub :- Compassionate ground appointment under relaxation of normal rules of recruitment Rules.

In pursuance of CO/GH letter No. Staff/16-CSC/2002 dtd 25-2-03 It is conveyed that your case (S) could not be considered as there is no vacancy in any cadre and therefore, rejected by the CSC held on 24.01.03

(B. Radhika Chakravorty)
Senior Superintendent,
RMS 'GH' Dn, Guwahati-1.

Copy to :-

1-8. Concerned file of the candidates.

Senior Superintendent,
RMS 'GH' Dn, Guwahati-1.

*Copy to :-
1-8. Concerned file of the candidates.
[Signature]*

[Signature]

(Copy)

Annexure-^{"F"}

16-8-2003.

To,

The Chief Post Master General
Assam Circle, Guwahati-1

Through the SSRM, 'GH' Divn,
Guwahati Divn,

Sub : An appeal for appointment on compassionate
Grounds.

Ref : My application dated 19-12-2001
Your letter dated 24-3-2003.

Sir,

Most humbly I beg to state that my father Late Maina Ram Deka worked under HRO, RMS "GH" Divn of Rangia and died on 5-10-2001. I applied for a job on compassionate ground. That while my application for appointment was pending, you appointed Smt. Sarada Baishya wife of late Kamala Kanta Baishya who worked in the same establishment and died later than my father and applied later than me.

That sir, in your letter dated 24.3.2004 it is stated that there is no vacancy and for that reason my case could not be considered. But if there is no vacancy how Smt. Sarada Baishya is appointed, who applied later than me.

I, now therefore once again request you kindly to consider my case and to appoint me in a post as per my qualification and oblige.

Yours faithfully,

Sdf

(Sri Hemanta Deka)
Vill- Niz-Madartola
P.O. Baihata Chariali
Dist- Kamrup.

*Certified true
true copy
Hemanta Deka*

ANNEXURE- G

To,

20-1-2004

The Chief Post Master General

Assam Circle, Guwahati-1

Through S.S.R.M "GH" Divn,

Guwahati-1.

Sub : appointment on compassionate Grounds.

Ref.: My earlier letter dated 19.12.2001
and 16.8.03.

Sir,

With reference to the above quoted letter on the above subject I beg to draw your kind attention that I applied for the appointment on compassionate ground, and my case has been rejected but during the pendency of my application several persons has been appointed on compassionate ground.

I, therefore once again request you kindly to appoint me in any job as my family has no other source of income, which I explained in my earlier letters.

Yours faithfully,

sd/-

(Sri Hemanta Deka)

*Certified to be
true copy
of the
original
for
1-10/04*

11 APR 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

AT GUWAHATI.

27
f.W by the
Respondent 4th
M. H. Ahmed,
Addl. C. A. & C.
1/4/05

IN THE MATTER OF :

O.A. NO. 232/2004

Sri Hemanta Deka

----- Petitioner.

Vs.

Union of India & ors.

----- Respondents.

IN THE MATTER OF :

Written statement submitted by the
Respondent No. 1 to 3.

The Humble answering Respondents submit their
written statements as follows :-

(1) a) That I am the Senior Superintendent of RMS,
'GH' Division, Guwahati-781001 and Respondent No.4 in
the above case. I am acquainted with the facts and
circumstance of the case. I have gone through a copy of
the application served on me and have understood the
contents thereof. Save and except whatever is specifically
admitted in this written statements, the contentions and
statements made in the application may be deemed to have
been denied. I am competent and authorised to file the
written statement on behalf of all the respondents.

b) The application is filed unjust and unsustainable
both on facts and in law.

Contd.....2.

(2)

c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.

d) That the application is also hit by the principles of waiver, estoppel and acquiescence and liable to be dismissed.

(2) That with regard to the statements made in paragraphs 1, 2, 3 & 4 (1) of the application the respondents/ deponent have no comments on them and the Applicants are put to strictest proof thereof.

(3) That with regard to the statements made in paragraph 4(2) & 4 (3) of the application, the respondents beg to state that the applicant has conveniently suppress the material facts. The Department have paid advance of Rs. 10,000/= (Rupees Ten thousand) only as per application dtd. 23-01-01 filed by the applicant. The official did not pray any further advance and thereafter submitted M.O. bills to concerned office for Rs. 8562 against Rs. 10000/= (Rupees Ten Thousand) only . The copy is enclosed herewith which is self-explanatory.

It is pertinent to mention here that the Medical advance can be sanctioned only where the Govt. servant applied & certified by the Medical Authority.

(4) That with regard to the statements made in paragraph 4(4), 4(5) & 4(6) of the application, the Respondents submitted that, the applicant cannot claim his appointment

Contd.....3.

as a matter of Right. The Applicant has only right to be considered for appointment provided the applicant is eligible and qualified according to Rules, subject to availability of the vacancy.

That 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 over the emergency but the same cannot be taken as a enforceable and legitimate right of the applicant.

That the appointment on compassionate grounds can be made only if vacancy is available for that purpose that too limited to 5% of the vacancies for direct recruitment quota in a given year as held by the Hon'ble Supreme Court in its rulings in the cases of H.P. Transport Corporation -Vs- Dinesh Kumar (IT 1996 (5) SC 319) on 7-5-95 and Hindustan Aeronautics Ltd -Vs- A. Radhika Therumalai (IT 1996 (9) S.C. 197) on 9-10-96.

That the Applicant's case was forwarded to the CPMG/GH being the competent authority to approve for appointment under compassionate ground. The Divisional Superintendent has no power to give appointment unless approved by Circle selection committee.

That the appointment of Smt. Sarada Bala Baishya was made as per due process of Rules and procedures.

Contd.....4.

5) That with regard to statement made in paragraph 4(7) & 4(8), the Respondents beg to state that; according to Rule the Circle Selection Committee decides the selection cases and the Divisional Superintendent has no rule in the selection matter, except to action as per direction from Higher authority. The applicant may please produce the rules.

Further, there is no rulings which says that the employee who died from cancer will get special treatment for appointment. The rule says only employee who died while in service may be considered for appointment under compassionate ground provided the applicant full the terms and conditions.

6) That the Respondents denied the statements made in paragraph No. 4 (9). The Circle selection Committee is competent to give decision for compassionate appointment, after scrutinising the required criteria.

Further the department has sanctioned the following amount the wife of the deceased official Smt. Uttara Deka as admissible under Rules.

(i) DCRG -	Rs. 1,89,024/=
(ii) CGEIS -	Rs. ^{22 533/-} 2,25,033/=
(iii) Leave Encashment -	Rs. NIL
(iv) GPF -	Rs. 7,946/-
(v) Total-	Rs. 2,19,503/=
(vi) Family Pension as per revised pay Rule at present	
Rs. 3378/- P.M. + Rs. 100/= Fixed Medical allowance.	

(5)

7) That with regard to statements made in para 4 (10) & 4(11), the Answering Respondents beg to state that there is no any standing order that one who passed class XII should be given appointment in Grade 'C' category. It is a minimum Qualification laid down for appointment to Group 'C' which includes Mail Guard/Postman etc.

Furthermore, the vacancies may arises but due to ban in recruitment, the department has to abide by the order of the screening committee set for the recruitment purpose and should not exceed 5% of total vacancies.

8) That with regard to the statement made in paragraph 4(12) of the application, it is submitted that the CSC has approved for compassionate appointment to the wife of Late Kamala Kanta Baishya Smt. Sharada Bala Baishya in Group 'D' but in the instant case the wife of the deceased - prayed for appointment of her son in Group 'C' in which category, vacancies are not available and not a single appointment has been made violating any rules.

Further said Baishya was engaged as Lower Grade Group 'D' (Office Peon) of the unit whereas the claim of the applicant is for Group 'C' post (ie) clerical job in the RMS Division.

9) That with regard to the statement made in para - 5(1), 5(2), 5(3) & 5(4) as grounds for reliefs are without any national foundation. The applicant cannot claim his appointment as a matter of Right. The Applicant has only

Contd--6.

right to be considered for appointment provided the applicant is eligible and qualified as required and subject to availability of the vacancy.

It is pertinent to mention here that the claim of the Applicant was rejected by the competent authority, Circle Selection Committee after proper scrutiny and same was found not justified case for compassionate appointment.

10) That the respondents submit that the application is devoid of Merit and as such the same is liable to be dismissed.

11) That this written statement is made bonafide and for the ends of justice and equity.

VERIFICATION

I, Sri B.S. Shadap, Sr. Superintendent of RMS, GH. Division, Guwahati-781001 do hereby solemnly declare & verify that the statements made hereinabove are true to my knowledge, belief and information and nothing being suppressed.

I sign this Verification on this 1st day of April / 2005 at Guwahati.

Banbar Singh Shadap

SIGNATURE

উপ মহা-গুৱাহাটী মহা

গুৱাহাটী - ৭৮১০০১

Senior Superintendent

RMS 'GH' Dn. Guwahati 781001