

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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Salil
16.11.07

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 140/03

Misc Petition No: /

Contempt Petition No: /

Review Application No: /

Applicants: - Jitu Boronam

Respondents: - U.O.T. Sons

Advocate for the Applicants: - M. Chanda, S. Chaudhury, S. Nath
Mr. A. Deo Roy,

Advocate for the Respondents: - Mr. C. G. S.

Notes of the Registry	Date	Order of the Tribunal
Application No. 140/03	14.7.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
Entered in the Registry on 26.5.03		The Hon'ble Mr. N.D. Dayal, Member (A).
de IPD/ No 86490239		List again on 11.8.2003 for admission.
Entered... 26.5.03		Member
<i>He. N. B. 20/6/03 By. Registrar BAN</i>		Vice-Chairman

Steps taken:

PTB

2
11.8.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman

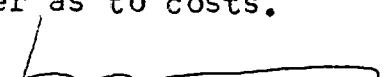
Heard Mr. M. Chanda, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

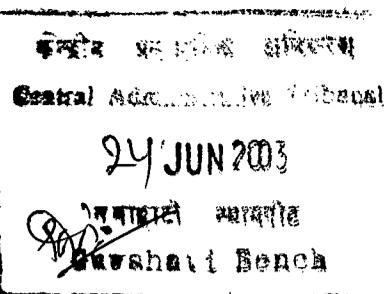
This application is directed
against the order passed on behalf of
the Commandant vide order No. 1504/Relax/
167/ Civ Est dated 07 Oct., 2002. The
applicant moved this Tribunal earlier
seeking for direction for compassionate
appointment. By judgment and order dated
11.1.2002 the case was disposed of.
Considering the facts situation, no
direction was issued for appointment on
compassionate ground. However, taking no
note of all the aspects, the Bench has
directed the applicant to submit representation for
consideration of his case for appointment
in any group 'D' posts as per law. Instead,
the respondents by order dated
7.10.2002 rejected the representation
of the applicant in the light of the
scheme for compassionate appointment.

By judgment and order dated
11.1.2002 passed in O.A. No. 416/2002
the respondents were directed to consider
the representation of the applicant
sympathetically for appointment in any
group 'D' post as per law i.e. any other
post including the post like Mazdoor
or any such post available under the
respondents which the respondents failed
to do.

The order dated 7.10.2002 is
set aside and the respondents are
directed to consider the case of the
applicant in the light of the order
for appointment against any available
vacancies, alongwith others as per law,
keeping in mind the order of the Bench
in O.A. 416/2002.

The application is thus stands
disposed of. No order as to costs.


Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

140
O.A. No. /2003

Sri Jitu Barman

-vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

24.11.97 The father of the applicant while serving as a Foreman in the office of the Commandant, 222 ABOD (Respondent No.2) died in an accident. After the death of the father the present applicant's family has no bread earner. Immediately after the death of his father the mother of the applicant repeatedly approached before the competent authority for appointment on compassionate ground but to no result.

07.12.98 The applicant submitted representation along with his mother for compassionate appointment in any Group C category addressing to the Commandant, 222 ABOD, c/o 99 APO, Narengi, Satgaon, Guwahati.

(Annexure-1 & 2)

19.04.00 Finding no positive response from the authority the mother of the applicant submitted another representation to the Commandant inter alia praying for compassionate appointment of the applicant to any Group C post. In her representation the mother of the applicant stated the financial stringencies

of the family and bona fide need of the present applicant's appointment.

(Annexure-3)

19.4.00 The mother of the applicant along with his brother submitted an affidavit along with the representation stating therein that if the present applicant is appointed on compassionate ground then no other dependent of the deceased will further claim for compassionate appointment.

(Annexure-4)

11.10.00 The respondent issued an order informing the applicant that the case of the present applicant had been rejected on merit and advised the applicant to apply again.

(Annexure-5)

Oct.'00 The applicant being aggrieved by the order dated 11.10.2000 approached this Hon'ble Tribunal through O.A. No. 416/2000.

11.01.02 This Hon'ble Tribunal disposed of the O.A. No.416/2000 directing the respondent to consider the appointment of the applicant in any Group D post if the applicant submits a representation narrating his willingness to join any of the Group D post.

(Annexure-6)

08.03.02 The applicant submitted a representation along with the order dated 11.1.02 praying for appointment on compassionate ground in any Group D post.

(ANNEXURE 6A)

07.10.02 The respondent no. 2 passed an order rejecting the case of the applicant for compassionate appointment.

(Annexure-7)

P R A Y E R

- 8.1 That the impugned letter issued under letter No. 1504/Relax/167/Viv/Estt. Dated 7.10.2002 rejecting the claim of the applicant for appointment on compassionate ground be set aside and quashed.
- 8.2 That the respondents be directed to consider the appointment of the applicant on compassionate ground with immediate effect in terms of the scheme laid down by the Government of India in regard to the appointment on compassionate ground.
- 8.3 Costs of the Application.
- 8.4 Any other relief/relieves to which the applicant is entitled under the facts and circumstances of the

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
(An application Under Section 19 of the Administrative
Tribunals Act, 1985)

Title of the Case : O.A. No. 2003

Sri Jitu Barman : Applicant

-V9-

Union of India & ors : Respondents

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Date : 18/6/2003

Filed by

Savait Dorothy
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An Application Under Section 19 of the Administrative
Tribunals Act, 1985)

O.A. No. _____/2003

BETWEEN

Sri Jitu Barman
Son of Late Binod Chandra Barman
Noonmati, Mathghoria,
Post Office : Noonmati,
Guwahati

..... Applicant

AND

1. Union of India

Through the Secretary to the
Government of India,
Ministry of Defence, New Delhi.

2. The Commandant,

222 AVOD

C/O 99 APO

Narengi, Satgaon
Guwahati.

3. Major R. Kumar, M^c

Pers Officer (Civ)

/o The Commandant
c/o 99 APO
Narengi

.... Respondents

DETAILS OF APPLICATION

1. Particulars of order against which this
application is made

This application is made against the impugned

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Sri Jitu Barman

(2)

letter No. 1504/Relax/167-Civ Est. dated 7.10.2002 upon which the respondents rejected the claim for appointment of the applicant on compassionate ground and also praying for a direction upon the respondents for appointment of the applicant on compassionate ground with immediate effect on the ground that father of the applicant died in accident in harness on 24.11.1997.

2. Jurisdiction of the Tribunal

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

3. Limitation

The applicant further declares that this application is filed within the limitation prescribed Under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

4.1. That your applicant is a citizen of India having permanent resident of Assam.

4.2. That the father of the applicant Sri Binod Chandra Barman was working as Foreman, in the office of the Commandant 222 ABOD, C/o 99 APO, Narengi, Satagaon.

4.3. That the father of the applicant while working as Foreman in the office of the respondent No. 2 he was

contd...p/3

Sri Jitlu Barman

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died in an accident while in service i.e. on 24.11.1997 at Mathghoria. The father of the applicant has rendered service under the Respondents for more than twenty years and he was a permanent and confirmed employee under the respondents.

4.4. That Late Binod Chandra Barman, Ex-Foreman at the time of his death left 4 sons, 1 daughter and wife including the present applicant. It is stated that there is no bread earner in the family after the tragic death of Sri Binod Chandra Barman and they were entirely depending upon the income of the deceased Government servant Late Binod Chandra Barman.

4.5. That the mother of the applicant immediately after the death of her husband verbally approached before the competent authority praying for an appointment of his son 'B' post in any group, on compassionate ground under the respondents on priority basis in view of the tragic death of her ^{hus} _{husband} late Binod Chandra Barman, but to no result.

4.6. That after elapse of many years of death of his father, the applicant Sri Jitu Barman alongwith his mother submitted separate representation for compassionate appointment on 7.12.1998 addressed to the Commandant, 222 ABOD, C/O 99 APO, Narengi, Satgaon, Guwahati praying for appointment of the applicant in any Group & 'C' category on compassionate ground on priority (1) category

in view of the tragic death of his father, Ex-Foreman while in service. The applicant as well as his mother also stated in detail in their representations regarding accidental death of the father of the present applicant. It is further stated in the representation that sudden demise of the father of the applicant has put the family in an embarrassing situation as he was the sole physical, mental and economical backbone of the family. After the death of the father of the applicant they are suffering from financial ~~mix~~ crisis as because there are four unemployed brother, one sister and mother of the applicant. But thereafter the authority did not take any initiative for appointment of the applicant which is amount to violation of the fundamental right and also in violation of scheme of compassionate appointment to a deceased family.

Copies of the representation both dated 7.12.99 submitted by the mother of the applicant and the applicant himself are annexed as Annexures- 1 & 2 respectively.

4.7. That thereafter an ^{expiry} elapse of one and half year finding no positive response from the respondents finding no other alternative the mother of the applicant submitted another representation on 19.4.2000 addressed to the Commandant, 222 ABOD, C/O 99 APO, Narengi, Satgaon and praying inter alia for appointment of the applicant on compassionate ground.

Sri Jitu Barman

It has also stated in the said representation that after death of the father of the applicant he left six dependent family members (4 sons and 1 daughter and mother of the applicant). But after the death of the father of the applicant the financial condition of the entire family deteriorated to such an extent that the 6 family members now at the stage of starvation. It is further stated that in the earlier representation dated 7.12.1998 the mother of the applicant and the applicant expressed in detail regarding bonafide need for compassionate appointment and also the applicant is one of the members who passed the HSLC in the year 1995 and thereafter applicant passed Higher Secondary in the year 1997. As such the applicant is eligible for appointment to any Group C or D post. It is also relevant to mention here that the applicant ~~xxxx~~ has also marriageable sister as such the applicant in need of a regular government job to support his family.

4.8. That the mother of the applicant with his brother also submitted an affidavit alongwith the representation dated 19.4.2000 and they categorically stated in the affidavit that if the present applicant is appointed on compassionate ground then no other dependent of the deceased will further claim for compassionate appointment. Therefore , the Hon'ble Tribunal be pleased to direct the ~~xx~~ respondents for appointment of the application on

contd....p/6

Shri Jitendra Burman

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on compassionate ground, in group 'D' post.

A copy of the representation dated 19.4.2000 and a copy of the affidavit are annexed hereto as Annexures- 3 and 4 respectively.

4.9. That your applicant while eagerly waiting for his compassionate appointment, the respondent issued an order under letter bearing No. 1504/Relax/X/Civ/Est dated 11.10.2000 whereby it was informed to the applicant that case of the compassionate/applicant was rejected on the ground that name of the applicant was not come under merit and further advised the applicant to apply again.

Copy of letter dated 11.10.2000 is annexed hereto and is marked as Annexure- 5.

4.10. That your applicant being aggrieved by this order dated 11.10.2000 approached before this Hon'ble Tribunal by filing an original application on 4.6.2000 and the Hon'ble Tribunal upon considering the facts and circumstances of the case and upon hearing both the parties directed the respondent that if the applicant is in fact agreeable for any 4th Grade post/ like Mazdoor etc. applicant may make a representation before the respondents narrating his grievances and the respondents may consider his case sympathetically for engaging him in any other post including the post like Mazdoor etc. considering the hardship of the family of the applicant.

Accordingly the application was disposed of on
11.1.2002.

Copy of the order dated 11.1.2002 is
annexed hereto and is marked as Annexure-6.

4.11. That your applicant upon receipt of the order dated 11.1.2002 submitted a representation dated 8.3.2002 alongwith the order dated 11.1.2002 before the respondent praying interalia for appointment on compassionate ground to any Group D post in terms of the Judgment and Order dated 11.1.2002 in O.A. No. 416 of 2000. A copy of representation dated 8-3-2002 is enclosed as annexure - 6A.

4.12. That your applicant states that after submission of representation before the respondent, the respondent No.2 passed an order on 7.10.2002 rejecting the case of the compassionate appointment of the applicant by taking two new grounds - one is that the applicant has applied three times, and another one is that applicant can apply within 4 years of death which is illegal, arbitrary and unfair.

Copy of the order dated 7.10.2002 passed by the Respondent No.2 is annexed hereto and is marked as Annexure- 7.

4.13. That your applicant begs to state that on 24.11.97 father of the applicant died and after one year on 7.12.98 he applied for appointment on

compassionate ground and after passing of the judgment and order dated 11.1.2002 applicant also applied for the Group D post as such ground taken in rejection order by the Respondent is highly arbitrary and illegal and therefore the impugned letter dated 7.10.2002 is liable to be set aside and quashed. It is further stated that the applicant is very much in need of a job to save the other family members of deceased government servant, therefore, the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant on compassionate ground with immediate effect.

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4.14. That your applicant submits that the father of the applicant died on 24.11.97 and he has applied on compassionate ground on 7.12.1998, therefore case of the applicant is liable to be considered under government policy prevailing during the year 1998 but the case of the applicant has been wrongly not considered and as such the impugned order dated 7.10.2002 is liable to be set aside and quashed.

4.15. That your applicant begs to state that father of the applicant died leaving behind 6 dependents out of which none of the family member of the deceased, a government servant or having any other source of income and there is no bread earner in the family of the deceased government servant. At this critical

contd...p/9

Sri Jitu Barman

juncture the dependent family members of the deceased government servant are very much indecent condition and now passing a stage of starvation. As such rejection of the claim of the applicant for appointment on compassionate ground is highly arbitrary and as such impugned order dated 7.10.2002 is liable to be set aside and quashed.

4.16. That it is a fit case for the Hon'ble tribunal to interfere with to protect the valuable and legal right of the applicant for appointment on compassionate ground.

4.17. That this application is made bonafide and in the interest of justice.

5. Grounds for relief(s) with legal provisions.

5.1. For that the applicant applied for the compassionate ~~gymnogym~~ appointment just after the one year from the date of death of the father of the applicant on 7.12.98 after observing all formalities and as such the impugned order is liable to be set aside and quashed.

5.2. For that the impugned order passed by the respondent on extraneous consideration and without giving reason and there is no basis for passing the order that the case of the applicant was considered for three times and the time is over and as such the impugned order is liable to be set aside and quashed.

5.3. For that the impugned letter dated 11.10.2000 did not mention any reason for rejection of the prayer for compassionate appointment of the applicant.

5.4. For that there is no bread earner among the dependent family members of the deceased Government servant and all of them are at the stage of starvation.

5.5. For that the applicant has acquired a valuable and legal right for consideration of appointment on compassionate ground as the father of the applicant expired while he was in service.

5.6. For that it has become extremely difficult on the part of the applicant to maintain his livelihood alongwith other dependent family members with the meagre amount of family pension.

5.7. For that Late Binod Chandra Barman left 6 dependent family members including a marriageable daughter.

6. Details of remedies exhausted

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. Representations were submitted by the applicant for appointment on compassionate ground to any Group C/D post but the respondents have not taken any initiative for appointment of the applicant on compassionate ground.

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V

(11)

Now vide impugned order dated 7.10.2002 the prayer of the applicant has been rejected.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he has previously filed an application before this Tribunal which was disposed of and no any other application or writ petition is pending before any other Court.

8. Relief(s) sought for :

Under the facts and circumstances of the case the applicant prays that your Lordships would be pleased to issue notice to the Respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :-

8.1. That the impugned letter issued under letter No.1504/Relax/167/Civ/Est dated 7.10.2002 rejecting the claim of the applicant for appointment on compassionate ground be set aside and quashed.

8.2. That the respondents be directed to consider the appointment of the applicant on compassionate ground

contd...p/12

Sri Jitlu Barman

with immediate effect in terms of the scheme laid down by the Government of India in regard to the appointment on compassionate ground. in any group 'D' post.

8.3. Costs of the applicant.

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

9. Interim reliefs prayed for :

Pending disposal of this application, an observation be made that pending of this application shall not be a bar for the respondents for appointment of the applicant on compassionate ground.

10. That this application is filed through Advocate.

11. Particulars of the I.P.O.

i) I.P.O. No. : 8G 490739

ii) Date of Issue : 28/5/2003

iii) Issued from : G.P.O., Guwahati.

iv) Payable at : G.P.O., Guwahati.

12. List of enclosures

As stated in the index.

Verification....

Sri Jitu Barman

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(13)

VERIFICATION

I, Sri Jitu Barman, Son of Late Binod Chandra Barman, aged about 25 years, resident of Noornmati, Mathghoria, P.O. Noonmati, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and the statements made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 18th day
of ^{June} May, 2003.

Sri Jitu Barman

Signature

Annexure-1

To

The Commandant,
222, ABOD,
C/o 99 APO
Narengi, Sutgeon-27

Sub : PRAYER FOR GIVING SERVICE TO MY 3RD SON ON
COMPASSIONATE GROUND.

Respected Sir,

With due respect, I, wife of Late Binod Chandra Barman, beg to state that my husband, Late Binod Chandra Barman an employee of your office dies in an accident on 24.11.1997 at Mathgharia. Sudden demise of my husband has shocked our family members terribly as he was sole physical, mental and economical backbone of our family. After his death, we have suffered from severe financial crisis as our family comprising four unemployed sons, one daughter, one daughter-in-law and myself, is a big family. For this reason, we feel that sooner we get a permanent source of livelihood it is better for establishing our family in this age of quick escalation of prices of daily essential goods.

As you know, I am a heart broken widow and I have to look after all my children, hence we, I and my other children, have decided to delegate SHRI JITU BARMAN who is the 3rd son of Late Binod Chandra Barman to apply for a service in your esteemed organisation in place of Late Binod Chandra Barman on humanitarian ground. I have full faith on him like an obedient son that he will look after my other children including myself also. Accordingly, he has applied for a service in your institution.

I, therefore, pray your kindself to grant my 3rd son Shri Jity Barman a service in your institution so that our family can get rid of current crisis forever.

This is my most humble prayer.

Yours faithfully,

Sd/- Ramala Barman
Wife of Late Binod Chandra Barman

Date 7/12/98

Attested

By Ch.

Advocate

18/6/03

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Annexure-2

To

The Commandant,
222, ABOD,
C/o 99 APO,
Narengi, Satgaon-27

SUB : PRAYER FOR GETTING SERVICE IN PLACE OF MY DECEASED
FATHER LATE BINOD CHANDRA BARMAN, EX-FOREMAN.

Respected Sir,

Most respectfully, I beg to state that as your kindself is aware that Late Binod Chandra Barman, Ex-Foreman of your office died by an accident on 24.11.1997 at Mathgharia. He is my father and his sudden demise has shocked our family members terribly as he was the sole physical, mental, economical support of our big family consisting of seven members. After his death, we have suffered from severe financial crisis as our family is a big one.

I, therefore, pray your kindself to kindly consider our present situation and give me a service in your office, so that I can take and carry out the responsibility of maintaining our family members and make my brothers and sister continue in their education.

This is my most humble prayer.

Yours faithfully,

Date 7.12.1998

Sd/- Jitu Barman

3rd son of Late Binod Chandra Barman

Attested

Advocate
18/6/03

To
The Commandant,
222 AVOD
C/o 99 APO
Narangi, Satgaon

Sub : Prayer for immediate consideration of appointment
of my 3rd son Shri Jitu Barman on compassionate
ground.

Ref : My representation dated 7.12.1998

Respected Sir,

I would like to draw your attention on the subject cited above and further beg to state that my husband late Binod Chandra Barman was working as Foreman in your establishment who died in an accident while in service i.e. on 24.11.1997, at Mathgharia. My husband rendered service more than twenty years in your establishment. He was a permanent and confirmed Government employee. Due to sudden unfortunate demise of my husband the financial condition of the entire family deteriorated to such an extent that the 6 dependent family members (4 sons and one daughter and myself) are at the stage of starvation. In my earlier representation dated 7.12.1998 I expressed in detail regarding bona fide need of compassionate appointment of my 3rd son Shri Jitu Barman as there is no other bread earner in the family after unfortunate death of my husband late Binod Chandra Barman. In this connection it is also relevant to mention here that all my four sons are still unemployed and Shri Jitu Barman possess requisite qualification for appointment to any suitable post in Group 'C' category. He passed his H.S.L.C. in the year 1993. Thereafter he has passed the Higher Secondary Examination in the year 1997. As such he is eligible for appointment to any Group C post. It is also relevant to mention here that I have got a marriageable daughter as such I need financial assistance. Therefore I request you to take necessary steps for immediate employment of my son on compassionate ground. It is needless to mention here once again that my husband left us leaving behind 6 dependent members long back i.e. on 24.11.1997 and I approached the authority on 7.12.1998 for appointment of my son on compassionate ground but unfortunately more than two years have already been elapsed not a single communication

Attached

Advocate
18/6/03

Contd...

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-PB-
-15-

-15-

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is received from your end. It is highly shocking and also contrary to the policy of the Government of India for such compassionate appointment. Therefore in the compelling circumstances I once again request you to take immediate steps for appointment to my son on compassionate ground as mentioned above to any Group C post without any further delay to save the life of six dependent family members of the deceased Binod Chandra Barman.

Kindly intimate your decision if any, in this regard within a period of one month from the date of receipt of this/letter/representation. I am enclosing a photocopy of the affidavit regarding no objection for appointment of my son Jitu Barman on compassionate ground. I also request you to intimate the undersigned if any other formalities is required to be made on my part.

An early action in this regard is solicited.

Thanking you,

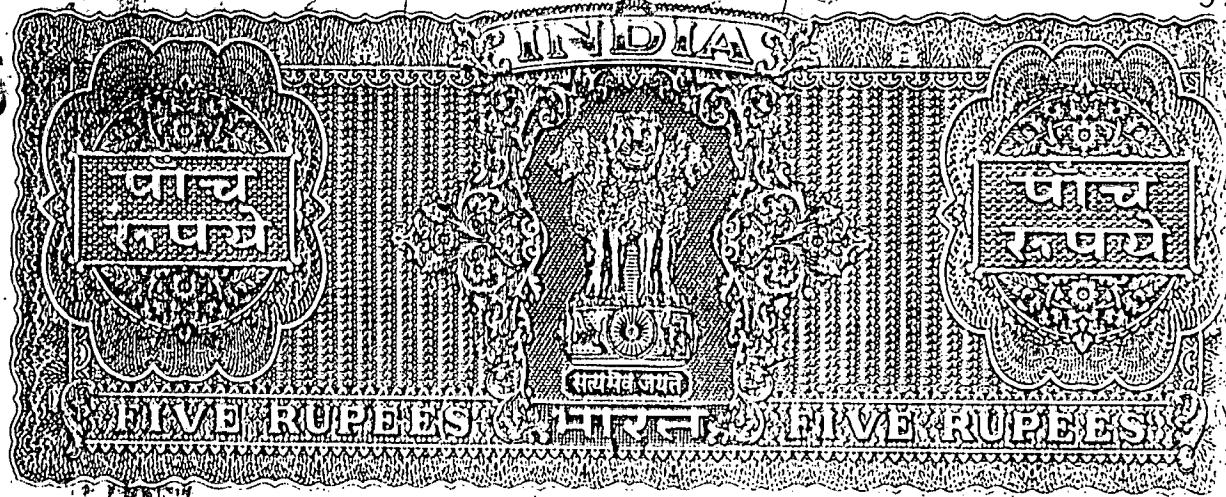
Yours faithfully,

Enclo : As stated above

Sd/-

Date : 19.4.2000

(Smt. RAMALA BARMAN)
C/o Late Binod Chandra Barman
Noonmati, Mathghoria
P.O. Noonmati, Guwahati



IN THE COURT OF THE MAGISTRATE AT GUWAHATI :-

:- AFFIDAVIT :-

We, the family members of LATE BINOD CHANDRA BARMAN, Ex-
Foreman, Smti. Ramala Barman, (Wife-D/B: 06.06.19932), Shri
Swapan Kumar Barman (Son-D/B: 03.07.1971), Shri Kalyan Barman
(Son-D/B: 06.06.1973), Shri Jitlu Barman (Son-D/B: 24.11.1975),
Shri Nilu Barman (Son-D/B: 23.05.1977) and Miss Anjali Barman
(Daughter-D/B: 05.01.1980 by religion: Hindu, Caste: Scheduled
Caste (Sub-Caste: Kalbarital), by profession: House-
wife/Unemployed/Student, resident of village: 2 No. Mathgihata,
Police Station: Noonmati under Houza: Beltola, in the district of
Kamrup, Assam do hereby solemnly affirm and declare as follows:-

1. That we are citizens of India by birth and permanent resident
of the aforesaid locality.

2. That above mentioned dates indicated within brackets are our
dates of birth at own residence.

3. That we come to know our dates of birth from our parents.

4. That we only family members of deceased BINOD CHANDRA BARMAN,
Ex-Foreman who died in an accident on 24.11.1997.

Contd..... P/2



Attested
Advocate
18/6/03



-:: (2) ::-

5. That we, the family members of LATE BINOD CHANDRA BARMAN, Ex-Foreman decided with one consent to request the authority to give a service Shri Jitu Barman in their esteemed organisation in compensation ground. After giving appointment to Shri Jitu Barman, there will be no any further demand to appoint another family members in compensation ground from our-side. It means request of appointment Shri Jitu Barman is our joint and final decision of the family members of LATE BINOD CHANDRA BARMAN.

THIS IS TRUE TO OUR KNOWLEDGE AND BELIEF.

6. That this affidavit will be produced as a piece of evidence before the authority to be Commandant 222 ABOD, C/O 99, APO, Narengi, Satgaon-27, for age and address proof.

And we sign this affidavit on this 21st day of January 1999 at Guwahati.

Sri Binod Chandra Barman

Sri Swapan Barman

Sri Kalyan Barman

Sri Jitu Barman

Sri Nihal Barman

Sri Nirmal Barman

DEPOENTS :

Solemnly affirmed and declared before me by the deponents who are identified by Dilbaghsingh, Advocate's Clerk on this 21st day of January '99.

21-1-99
MAGISTRATE: GUWAHATI

Postal & Judicial Magistrate
Lokayukta, Guwahati



-18-

-P- 20-

Annexure-5

222 Agrim Sthai Ayudh Bhandar
222 Advance Base Ordnance Depot
C/o 99 APO

1504/Relax/x/Civ Est 11 Oct 2000

Shri Jitu Barman
Vill. & P.O. Mathagharia,
P.S. Noonmati under
Houza Beltola, Dist-Kamrup
(Assam)

EMPLOYMENT IN RELAXATION TO NORMAL RULES.

1. Reference your application dt.
2. Your application has been rejected/not considered by the board of office due to the following reasons as per laid down policy vide 93669/Policy/OS-8C(1) dated 30 Jul 99 :-

- (c) Your name is not comes under merit by the board of officers. You can apply again.

Sd/-

(JP Minz)
OOC(A)
For Officer (Civ)
for Commandant

Attested
on 15/06/03
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE — 6

Original Application No. 416 of 2000.

Date of decision : This the 11th day of January, 2002.

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

Sri Jitu Barman,
Son of Late Binod Chandra Barman,
Noonmati, Mathghoria,
P.O. Office Noonmati,
Guwahati.

....Applicant

By Advocate Mr. S. Dutta.

-versus-

1. Union of India
through the Secretary to the
Government of India,
Ministry of Defence,
New Delhi.
2. The Commandant,
222 ABOD
C/o 99 APO
Narengi, Satgaon,
Guwahati.

....Respondents

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

O R D E R (ORAL)

CHOWDHURY J. (V.C.).

The issue pertains to compassionate appointment. The father of the applicant Binod Chandra Barman since deceased was working as Foreman in the office of the Commandant, 222 ABOD, C/o 99 APO, Narengi, Satgaon, Guwahati. Late Binod Barman while working as such in the office of the respondent no.2, met with an accident and succumbed to death on 24.11.1997 leaving behind his wife, four sons and one daughter including the present applicant who happened to be the son of the deceased Binod Barman. The mother of the applicant first approached the competent authority for engagement of her 3rd son Sri Jitu

Attested
Advocate
18/06/03

Barman in any Group C post on compassionate ground. After a lapse of one year the applicant alongwith his mother submitted separate representations for compassionate appointment on 7.12.1998 addressed to the respondent no.2 praying for appointment of the applicant to any Group C category on compassionate ground. Failing to get any response the applicant again submitted a representation on 19.4.2000. On 11.10.2000 a communication was made to the applicant on behalf of the respondent no.2 that his application was rejected since he was not found suitable on merit for compassionate appointment. The legitimacy of the said action of the respondent no.2 has been challenged in this proceeding as arbitrary and discriminatory.

2. The respondents submitted its written statement and contended therein that the case of the applicant was duly considered and on assessment of the case of the applicant alongwith others, the applicant was not found suitable for appointment on compassionate ground. In the written statement the respondents stated that the case of the applicant was first considered by a Board of Officers on 8th October, 1999. Amongst the applicants seeking for employment under relaxation under normal rules, the applicant had obtained only 34% marks on merit. Another Board was convened on 1.9.2000 and there the applicant secured only 33% marks. The Board in its sitting dated 18.1.2001 also considered the case of the eligible persons where the applicant obtained only 34% marks. The persons with higher merits were appointed against the quota earmarked for compassionate appointment and therefore he could not be appointed.

3. I have heard Mr. S.Dutta, learned counsel appearing on behalf of the applicant at some length. The learned counsel Mr. S. Dutta first submitted that the case of the applicant ought to have been considered as per the old rules and not by the new rules as the new rules came into existence after

Contd..

the death of the father of the applicant. Mr. B.C.Pathak, learned Addl.C.G.S.C. on the other hand submitted that the applicant submitted his application in writing only on 7.12.1998 and thereafter his case was processed and took up for consideration by the Board on 8.10.1999 when the Board was convened for selection for compassionate appointment. At that point of time, the policy decision of 1999 came into existence and the respondents accordingly acted on the policy decision of 1999. I have gone through the policy decision of 1999 pertaining to employment and regularisation of normal rules. Prior to it a guideline was issued on the basis of DOPT's OM dated 30.6.1987 followed by the Headquarter letters dated 8.6.1989, 24.9.1998, followed by the Headquarter Signal dated 17.11.1998. The same was followed by DOPT's O.M. dated 9.10.1998. By the new instruction the procedure is simplified and consolidated by the DOPT's Memorandum dated 9.10.1998. As per the copy of the Army Headquarter letter dated 20.7.1999, the said circular was to be implemented with immediate effect. Prior to it the earlier procedure was in vogue.

4. In the absence of anything mere holding of the selection of the applicant on 8.10.1999 on the basis of the new circular cannot be faulted as arbitrary, more so the application of the applicant that was filed for compassionate appointment on 7.12.1998. Mr. Dutta learned counsel for the applicant next submitted that the assessment of marks allotted to the applicant are seemingly arbitrary referring to the new norms vide communication dated 19.8.1999 wherein more weightage only given to number of children and the family members and therefore the said circular is seemingly arbitrary and discriminatory.

5. I have gone through the policy decision which indicated about the allocation of marks, comparative marks are assessed on some basis, one of the considerations is number of family

members, 30 marks are allotted at the rate of 10 marks per minor children and unmarried daughter. Similarly 10 marks are allotted at the rate of 2 marks per dependent member. Similarly 40 marks are allotted at the rate 2 marks for each year of service left out. The norms also lays down for the assessment on monthly income and 20 marks are given in monthly family pension, approximately monthly interest on lumpsum payments like CGEIS/GPF/DCRG/Leave Encashment and estimated monthly rental value of immovable properties. In addition, some marks are allotted due to death on duty-civilians and death of duty-combatants. Looking at the rules as such the norms prescribed by the policy decision cannot be said to be arbitrary. The whole endeavour is to select more needy person for employment in the limited available posts. The case of the applicant was considered and he could not be accommodated in the finite quota earmarked for appointment on compassionate ground. Mr. Dutta, learned counsel for the applicant lastly submitted that the family members of the applicant are also living in penury on the said demise of the sole bread earner of the family who died on harness. Mr. Dutta learned counsel for the applicant submitted that his case may be considered against any available posts in Group D and like post. The applicant is agreeable to get employed in any job to earn the family bread apart from the Group C posts. Mr. Dutta submitted that the applicant can be adjusted in the post of Mazdoor or any such post which are available under the respondents. Mr. B.C.Pathak, learned Addl. C.G.S.C. submitted that he does not have any instructions as to the availability of vacancies of that nature. If the applicant in fact agreeable for any such job he may make a representation before the respondents narrating his grievances and the respondents may consider his case sympathetically for engaging him in any other post including the post like Mazdoor etc. considering the hardship of the family.

With the observations made above, the application is disposed of. There shall however, no order as to costs.

Sd/VICE CHAIRMAN

6/1/02/02

6/1/02/02

CCU

To

The Commandant
222 ABOD
C/o 99APO
Narengi
Guwahati

Sub : Prayer for Appointment on compassionate ground to any Group D post in terms of the Judgment and order dated 11.1.2002 in O.A. No. 416 of 2000 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

Most humbly and respectfully I beg to lay the following facts before your honour for your kind and sympathetic consideration :-

1. That Sir, my father Late Binod Chandra Barman was working as Foreman in the office of the Commandant, 222, ABOD, C/o 99 APO, Narengi, Satgaon Guwahati who met with an accident and succumbed to death on 24.11.1997 leaving behind 6 dependent family members.
2. That Sir, being aggrieved for non consideration for compassionate appointment the undersigned approached the Hon'ble Tribunal through O.A. No. 416 of 2000 and the said O.A. was disposed of by the Hon'ble Tribunal on 11.1.2002 with the observation that the undersigned should approach the competent authority and offer his willingness or consideration of appointment in any Group D vacancy in view of the fact that the undersigned was not selected by the respondents for any Group C post. Hence this representation.
3. That Sir, I do hereby declare that I am willing to accept appointment to any Group D post since there is no alternative earning in my family except the meagre amount family pension. Therefore you are requested to consider my case for appointment to any Group D

Attested
Advocate
18/6/03

post as observed by the Hon'ble Tribunal in its Judgment and order dated 11.1.2002 in O.A. No. 416 of 2000.

A copy of the judgment and order dated 11.1.2002 is enclosed for your ready reference.

It is relevant to mention here that the undersigned submitted a similar representation enclosing the judgment and order dated 11.1.2002, addressed to your good self on 3.3.2002 by registered post. But due to inadvertence in the said representation the date of delivery of the judgment and order is wrongly written as 11.2.2002 in place of 11.1.2002 and the name and address of the applicant is also wrongly typed as Dhruba Kumar Thakuria in place of Jitu Barman. Therefore I pray that the said representation dated 3.3.2002 may kindly be treated as cancelled and further be pleased to accept the instant representation.

I express my deep regret for commission of the mistake occurred in the representation dated 3.3.2002.

Under the circumstances stated above, I have the honour to earnestly pray to your good self kindly to consider my case most sympathetically and favour me with an appointment in any Group 'D' post or any other suitable post on compassionate ground under your disposal and for this act of kindness I shall remain ever grateful to you.

Date : 8.3.2002

Yours faithfully,

Jitu Barman

(JITU BARMAN)
S/o Late Binod Chandra Barman
Mothgharia
P.O. Noonmati, P.S. Noonmati
Guwahati-781020

Annexure 7

-27-

REGISTERED BY POST

222 Agrim Sthai Ayudh Bhandar
222 Advance Base Ordnance Depot
C/O 99 APO

Oct 2002

1504/Relax/67/Civ Est

Smt Ramala Barman
W/O Late BC Barman
Vill- No 2 Mathgharia (Narengi)
P/S - Noonmati
Dist- Kamrup (Assam)

EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. Please refer to your visit this office and verbal request about your son's appointment dated 04 Oct 2002.
2. Your application has been rejected by the Board of Officers due to the following reasons as per laid down Policy vide 93669/ Policy/OS-8C(i) dated 30 Jul 99 :-
 - (a) Case of each individual for compassionate appointment will be considered only three times. The time is over. You are advised to get registered your name in employment exchange for a suitable job in other establishment.
 - (b) Application can apply within 4 years of death. 4 years already over.

(R Kumar)
Major
Pers Officer (Civ)
for Commandant

Encls : (As above)

Attested
R.Kumar
Advocate
18/6/03