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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 15, 2003
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s): Dilip Kumar Das

- vs. -

Respondent(s): UDT L. Ans

Advocate for the Applicant(s): Mr K. S. Patnaik, S. K. Sharma

Advocate for the Respondent(s): Mr P. N. Goswami, A. K. Chaudhuri

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Information portion is filed / not filed C. P. for Rs. 50/- admitted v. d. 17/01/03. Regd. No. T 605357 Dated 28/1/03.	31.1.2003	Heard Mr S.K. Sharma, learned counsel for the applicant. The application is admitted. Call for the records, returnable by four weeks. List it for orders on 28.2.2003.
NO. SYNOPSIS (C. P. By. Register. 28/1/03) No. SYNOPSIS has been filed.		Vice-Chairman
Two Service copy (1/1) 3 NOS Envelop has been filed N.B. 28/1/03	28.2.2003	On the prayer of Mr. A. K. Chaudhuri Addl. C. G. S. C. four weeks time is granted to the the respondents to file reply, if any. List the case on 4.4.2003 for order.
Envelope not received. Notice prepared and sent to DLS for issuing the Resherdcast No 1 to 3. by Royal A.D. on 6/2/03.	bb	Vice-Chairman
DINo 15 odd 1/1		
No. reply has been filed.		

3/4/03.

4.4.2003

No written statement so far filed by the respondents. List on 9.5.2003 for written statement.

8.5.03

W.S. submitted
by the Respondent No.3.

Vice-Chairman

mb

9.5.2003

Heard Mr. P.N. Goswami, learned counsel for the applicant. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. appearing on behalf of respondent No.3 stated that respondent No. has filed written statement.

Other respondents are yet to file written statement.

Put up the matter on 30.5.2003 in presence of the Govt. Advocate for the State of Assam.

Copy of order dtd 9/5/03
communicated to Mrs. M. Das,
Govt. Adv. Assam.

13/5/03.

W.S. filed by the R.No-3
Other respondent not bb
yet filed.

Vice-Chairman

20.5.03

30.5.2003 Put up again on 3.6.2003 in presence of Mrs. M. Das, learned Govt. Advocate for the State of Assam.

Vice-Chairman

mb

3.6.2003 Heard Mr. P.N. Goswami, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. and Mrs. M. Das, learned Govt. Advocate for the State of Assam.

Mrs. M. Das, learned Govt. Advocate prayed for time to obtain necessary instructions on the matter. Put up again on 27.6.2003 for orders in presence of Mrs. M. Das, Govt. Advocate for the State of Assam

Vice-Chairman

mb

(3)

Notes of the Registry

Date

Orders of the Tribunal

Notes filed on behalf
of R.N.O.B., others.
Respondent not yet
filed.

27.6.2003

Put up again on 10.7.2003
for hearing.

Vice-Chairman

mkm

gg

10.7.2003

It has been stated by the learned counsel for the applicant that he has received the written statement filed by the State Government in course of the day and he wants to go through the same.

Prayer allowed. List the case on 1.8.2003 for hearing.

Vice-Chairman

Received copy of a.s.
at R2
P.N.Goraiari
10/7/2003

bb

Prayer: Adjournd to 29/8/2003 for
hearing

DWS

A.K. Chowdhury

No. notes filed by
the 1 & 2.

29.8.03

On the prayer of learned
counsel for the applicant case is
adjourned to 5.9.03 for hearing.

Vice-Chairman

lm

5.9.2003

On the prayer of Mr. A.K.
Chowdhury, learned Addl. C.G.S.C. for
the respondents the case is adjourned
List on 12.9.2003 for hearing.

Vice-Chairman

mb

O.A.15/2003

Notes of the Registry

Date

Orders of the Tribunal

12.9.2003

Present: The Hon'ble Mr.K.V.prahala^{da}
Administrative Member.

Mr.A.K.Chaudhuri, learned Addl.

C.E.S.C. for the respondents prays
for adjournment of the case.

Prayer allowed. List the case on
24.10.2003 for hearing.


Member

bb

24.10.03

There is no Bench today.
Adjourned to 4.11.03.

870
b

W/S has been
billed.

My
3.3.04

4.11.03

No Bench today.
Adjourned to 26.11.03.

870
b

26.11.03

No Bench today.
Adjourned to 23.12.03.

870
b

4.3.04

List again on 8.3.04 as part
heard in presence of learned State
Government counsel.


Member (A)

pg

8.3.2004

Adjourned and again listed on

19.3.2004.

bb

Member (A)

19.3.2004 On the plea of Mr. P.N. Goswami, learned counsel for the applicant, the case is adjourned. List on 5.4.2004 for hearing.

Member (A)

mb

5.4.2004 Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court. Kept in separate sheets. The application is allowed. No order as to costs.

Member (A)

mb

19.3.2004 On the plea of Mr. P.N. Goswami learned counsel for the applicant, the case is adjourned. List on 5.4.2004 for hearing.

Wts has been
filed.

Rey
2-4-03

K.N. Dube
Member (A)

mb

5.4.2004 Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, Kept in separate sheets. The application is allowed. No order as to costs.

19.3.04
Copy of the Judgment
has been sent to the
Office for issuing
the same to the
L/Advocates for the
parties.

KS
Received
M.M. 22/4/04

K.N. Dube
Member (A)

mb

Memo No. H.C. XXI- 11, 816-19 R.M. Dtd 29/06/09
Received from the Hon'ble Gauhati High Court.

The judgment order dtd 03/06/2009 in
at flag 'A'
W.P.(c) No. 8197/2005 received from the Registry
of the Hon'ble Gauhati High Court along with the case records of O.A. 15/03 with C.R.N. 47/04,
2 ors. against the order dtd 5/4/2004 passed in
O.A. 15/2003 by the C.A.T. Gauhati Bench, Gauhati.

The Hon'ble Gauhati High court has been
pleased to allow the W.P.(c) No. 8197/2005 by set
aside the order dtd 5/4/2004 passed in O.A. 15/03
by C.A.T., Gauhati Bench.

The matter may be pleased before
the Hon'ble Vice-chairman for kind perusal.

Handed over
21.6.09
D. R.

21/6/09
S.O. (S)

Received
18/6/09

Received
18/6/09

Hon'ble re.

IN THE HIGH COURT OF
(The High Court of Assam, Nagaland, Meghalaya,
Manipur, Tripura, Mizoram and Arunachal Pradesh)

W.P. (C) No. 8197/2005

Union of India
Represented by the Secretary
Ministry of Home Affairs,
Govt. of India, North Block,
New Delhi-1

-Vs-

- 1) Shri Dilip Kumar Das, IPS (Rtd.)
Resident of 283, Carolanne Drive,
Delmar, New York- 12054, USA
- 2) The State of Assam
Represented by the Commissioner &
Secretary, Home Deptt.,
Govt. of Assam, Dispur, Guwahati-6
- 3) The Accountant General
Assam Pension/ Loan and GE-4
Section, Maidamgaon, Beltola
Guwahati-29
- 4) The Central Administrative Tribunal
Guwahati Bench, Guwahati-5,
Assam

...Respondents

BEFORE

**THE HON'BLE MR. JUSTICE RANJAN GOGOI
THE HON'BLE MR. JUSTICE B.K. SHARMA**

For the petitioner : Mr. H. Rahman, Adl. S.G.I.

For the respondent: Mr. A.C. Borborah, Sr. counsel
Mr. U.K. Nair, Advocate

Date of hearing : 24.04.09

Date of Judgment: 03.06.09

JUDGEMENT AND ORDER

B.K. Sharma, J

1. This writ petition has been filed by the Union of India challenging the judgment and order dated 05.04.2004 passed by the Central Administrative Tribunal, Guwahati Branch (hereinafter referred to as the Tribunal) allowing the original application filed by the respondent herein under Section 19 of the Administrative Tribunals Act, directing the Union Govt. to process and finalize his claim to grant pensionary benefits upon acceptance of the offer of voluntary retirement.
2. The respondent Shri Dilip Kr. Das was an IPS officer. He was appointed to IPS in the year 1965 vide notification dated 15.12.65. After serving in various capacities he had sought for study leave to undergo a special course on criminal justice in Michigan State University, USA. He was granted the study leave for a period of two years vide notification dated 20.10.79 issued by the Govt. of Assam in the Home Department. The notification was issued pursuant to the approval of the Govt. of India conveyed vide Annexure-I W.T. message dated 07.09.78. In the W.T. message it was indicated that the Ministries of Home Affairs and Finance had also agreed to the proposal. It was also conveyed that a bond required under Regulation 9 (1) of the All India Services (Study Leave), Regulations 1960 should also been obtained from the officer. The W.T. message was issued to the Chief Secretary, Govt. of Assam.
3. The respondent had proceeded to USA availing study leave. On completion of the period of study leave on 19.08.81 he applied for earned leave from 20.08.81 to 17.12.81 and thereafter again for extra-ordinary leave from 18.12.81 to 30.06.84. Both earned leave and extra-ordinary leave for the aforesaid two periods were granted to him. On completion of the period of leave he again prayed for extra-ordinary leave for one year w.e.f. 01.07.84 which, however, was not granted to him by the Govt. of India. Annexure-3 communication dated 12.03.85 was issued to that effect to the Govt. of Assam in the Home Department. For a ready reference Annexure-III letter dated 12.03.85 is quoted below:

**"No. I/45027/2/78-IPS
Government of India
Ministry of Home Affairs**

New Delhi, the 12th March, 1985

To,

**The Commissioner and Secretary
Government of India
Home (A) Deptt.
Dispur**

**Sub: Grant of extra-ordinary leave to Shri D.K. Das, IPS for
completion of Ph.D. in Criminology in USA**

Sir,

I am directed to refer to the State Government's letter No. HMA (IPS)33/209, dated 25th August, 1984, on the subject noted above and to say that the request of Shri D.K. Das, IPS for extension of Extra-ordinary leave for one year with effect from 01.07.1984 was considered in this Ministry, carefully in consultation with the BOP&AR, but it is regretted that it has not been found possible to accede to the same, Shri Das may be informed accordingly.

Yours faithfully,

**Sd/-
Under Secretary to the Govt. of India"**

4. After such rejection of the prayer for grant of extra-ordinary leave for one year w.e.f. 01.07.84, the petitioner vide Annexure-IV application dated 21.10.85 addressed to the Chief Secretary of the State conveyed his decision of retirement from service with a request to allow him to go on premature pension benefits. The application so submitted by the applicant was processed by the Govt. of Assam in the Home Department and by Annexure-V letter dated 19.11.85 the DIGP (A), Assam requested the Commissioner and Secretary, Govt. of Assam in the Home Department to pass appropriate order and to communicate the same.

5. It appears that no action followed on the basis of the aforesaid letter. However, in the year 1989 the Govt. of Assam in the Home Department addressed Annexure-VI letter dated 30.05.89 to the Govt. of India in the Ministry

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of Home Affairs requesting to review the decision conveyed vide the abovequoted Annexure-III letter dated 12.03.85. In the letter it was conveyed that the State Govt. had agreed to waive the recovery of the amount on account of the study leave. It was stated in the letter that the applicant/respondent already having gone on voluntary retirement, his request to grant extra-ordinary leave for 369 days enabling him to get pensionary benefits be considered.

6. The above letter dated 30.05.89 was followed by Annexure-VII letter dated 19.06.90 issued by the Govt. of Assam in the Home Department to the Govt. of India in the Ministry of Home Affairs. In the letter it was indicated that although extra-ordinary leave was not admissible beyond five years under the existing rules, but the case of the applicant/respondent had been considered on compassionate ground pleaded by him. Thereafter the request made was to grant extra-ordinary leave for 369 days.

7. After long 10 years of issuance of Annexure-VII letter dated 19.06.90, the Govt. of Assam in the Home Department of its own issued notification dated 22.02.2000 granting the applicant/ respondent extra-ordinary leave for 369 days covering the period of 01.07.84 to 04.07.85. Such leave was granted purportedly exercising the power under Rule 32 of the All India Service (Leave), Rules 1955 so as to enable the respondent to get the pensionary benefits.

8. After such granting of extra-ordinary leave for the period in question, the applicant/ respondent made request for acceptance of voluntary retirement enabling him to get pensionary benefits in response to which the Govt. of India in the Ministry of Home Affairs vide its letter dated 22.02.01 addressed to the Chief Secretary of the State and referring to Annexure-VIII letter dated 22.02.2000 intimated that such granting of extra-ordinary leave in excess of five years was beyond the competence of the State Govt. as the power was vested only with the Central Govt. There was no response to this letter. However, the Govt. of Assam in the Home Department by its W.T. message dated 14.05.01 (Annexure-X) addressed to the Director of Police, Govt. of India, Ministry of Home Affairs requested to convey the decision regarding acceptance of voluntary retirement of

M

the applicant in view of granting of extra-ordinary leave by the State Govt. for the period from 01.07.84 to 04.07.85.

9. When no decision was conveyed, the applicant/respondent approached the Tribunal by filing the application under Section 19 of the Administrative Tribunals Act for a direction to the Govt. of India to release the pensionary benefits. The application was registered and numbered as OA No. 15/2003. Under the specific column "Limitation" as required to be indicated under Section 21 of the Administrative Tribunal, 1985, it was stated that the application was within the period of limitation prescribed under Section 21.

10. The State respondent filed their written statement before the Tribunal stating the aforesaid facts. It was admitted that the case of the applicant for premature retirement benefits could not be finalized due to non regularization of the period from 01.07.84 to 04.07.85 and for want of Govt. of India's approval to treat the period as extra-ordinary leave entitling the applicant/respondent to go on voluntary retirement. It was admitted that the Govt. of India had regretted the proposal of the State Govt. to grant extra-ordinary leave for the period in question. According to the State respondent the case was examined afresh with due consultation with the Judicial and Finance Departments and consequently the extra-ordinary leave was granted for the period exercising the power under Rule 32 of the All India Service (Leave) Rules, 1955.

11. As regards the prayer of the applicant to allow him to go on voluntary retirement entitling him pensionary benefits, it was the stand of the State respondent that upon regularization of the period of 369 days by granting extra-ordinary leave, the case of the applicant was forwarded to the Govt. of India and the decision was awaited.

12. The Tribunal on the basis of the pleadings of the parties and the arguments advanced has allowed the original applicant filed by the applicant/respondent by the impugned judgment and order dated 05.04.04. It has been held that since the period in question stood regularized with granting of extra-ordinary leave by the State Govt. exercising its power under rule 32 of the All

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India Service (Leave) Rules, 1955, there is no impediment towards granting post retirement benefits to the applicant/respondent. According to the Tribunal the State Govt. was competent to grant the extra-ordinary leave for the said period.

13. Being aggrieved by the said judgment and order, the Union Govt. has invoked the writ jurisdiction of this Court by filing the instant writ petition. It is their stand that the Tribunal committed manifest error of law in holding that the State Govt. was competent to regularize the period in question by granting extra-ordinary leave exercising the purported power under Rule 32 of the aforesaid rules. According to the writ petitioner, i.e. the Union Govt., it is the Central Govt. which alone is competent to grant or not to grant leave for the period in question. It is their further stand that the applicant/respondent was not entitled to the leave in question beyond the prescribed period of five years.

14. We have heard Mr. H. Rahman, learned Asstt. Solicitor General of India as well as Mr. A.C. Borborah, learned Sr. counsel assisted by Mr. U.K. Nair, learned counsel for the applicant/ respondent. While Mr. Rahman referring to the provisions of All India Serviced (Leave) Rules, 1955 and the ground urged in the writ petition, submitted that State Govt. was not competent to regularize the period in question without the approval of the Govt. of India, Mr. Borborah, learned counsel for the applicant/respondent, submitted that the leave having been granted by the State Govt., exercising its power under Rule 32 of the Rules and the said power having been exercised taking into account the hardship of the applicant/respondent, the Tribunal rightly passed the impugned judgment and order.

15. We have given our anxious consideration to the submissions made by the learned counsel for the parties as well as the materials on record. The whole dispute has arisen only in the context of regularization of the period from 01.07.84 to 04.07.85 (369 days) which if not accounted for, does not entitle the applicant/respondent even to pray for voluntary retirement under All India Service (Death-cum-Retirement Benefits) Rules, 1958. Under Rule 16 (2A), a member of the Service may, after giving three months' previous notice in writing to the State Govt. concerned, retire from service on the date on which he completes 20 years

of qualifying service or any date thereafter to be specified in the notice. The petitioner having entered into the All India Service and being allocated to Assam Meghalaya Joint Cadre w.e.f. 15.12.1965, he would have completed 20 years of qualifying service on 14.12.85 and thus, the requirement to regularize the period from 01.07.84 to 04.07.85 granting him to extra-ordinary leave arose and the same was rejected by the Union Govt. by its above quoted letter dated 12.03.85 (Annexure-III).

16. The prayer of the applicant/ respondent having been rejected by the Govt. of India, there could not have been any occasion for the applicant/respondent to ask for premature retirement by his application dated 21.10.81. Be that as it may, the Govt. of Assam being aware of the position under the Rules and after long 4 years of rejection, by the Central Govt. of the prayer to grant extra-ordinary leave, requested the Central Govt. to review the issue. The request for review was made on 30.05.89 (Annexure-VI) followed by further letter dated 19.06.90 (Annexure-VII). When the Central Govt. in the appropriate Ministry did not concede to the request so made by the State Govt., the Govt. of Assam in the Home Department itself granted the extra-ordinary leave for the period of 01.07.84 to 04.07.85 purportedly under Rule 32 of the All India Service (Leave) Rules, 1955. It was with that kind of situation, the Govt. of Assam again wrote to the Govt. of India to finalize the process of acceptance of the voluntary retirement with consequential pensionary benefits.

17. It will be appropriate to refer to the relevant provisions of All India Service (Leave), Rules 1955 at this stage. The Rule has been framed by the Central Govt. in exercise of the power conferred by Sub-Section 1 of Section 3 of All India Service Act, 1951. The definition of "Government" under Rule 2(g) is as follows:

- (i) *in case of a member of the Service serving in connection with the affairs of the Union, the Central Government; or*
- (ii) *in the case of a member of the Service serving under a foreign Government (whether on duty or on leave), the Central Government; or*
- (iii) *in the case of a member of the Service serving in connection with affairs of a State, the Government of that State; or*
- (iv) *in the case of a member of the Service on leave, the Government who sanctioned him the leave.*

18. As per definition under Rule 2(k) "leave" includes earned leave, half pay leave, commuted leave, leave not due, extraordinary leave, study leave, special disability leave, maternity leave or any other authorized leave of absence. As per Rule 2(m), "member of the service" means a member of "an All India Service" as defined in Section 2 of the All India Services Act, 1951. Rule 3 states that leave cannot be claimed as of right and when the exigencies of public service, so demand, leave of any description may be refused or revoked by the Government. **Under Rule 7, no member of the Service shall be granted leave of any kind for a continuous period exceeding five years.** Under Rule 15, extra-ordinary leave may be granted to a member of the service in the circumstances indicated therein subject to provision of Rule 7 mentioned above. Rule 17 speaks of study leave which may be granted to a member of the Service on such terms as may be prescribed in the regulations made in this behalf by the Central Government in consultation with the State Government concerned to enable him to undergo, in India or out of India a special course of study or instructions approved by the Government in Public interest. Rule 32 which is the centre of controversy empowers the Govt. to relax the provisions of the rules in individual cases. For a ready reference Rule 32 is quoted below:

32. Relaxation of the provisions of the rules in individuals cases: where the Government is satisfied that the operation of any of these rules causes or is likely to cause undue hardship to a member of the Service, it may, after recording its reasons for so doing and notwithstanding anything contained in any of these rules, deals with the case of such member in such manner as may appear to it to be just and equitable.

19. Rule 33 of the Rules deals with "interpretation". If any question arises as to the interpretation of these rules, the Central Government shall decide the same.

20. In the instant case, study leave was granted to the applicant/respondent by the Central Govt. which was conveyed vide the above referred W.T. message dated 07.09.78 (Annexure-I). By the said message approval of the Govt. of India

was conveyed with the approval of the External Affairs and Finance Ministries with the further condition to obtain a bond under Regulation 9(1) of the All India Service (Study Leave) Regulations, 1960. Rule 17 of the Rules mentioned above provides for granting of study leave on such terms as may be prescribed in the Regulations. Such leave is to be granted by the Central Govt. in consultation of the State Govt. concerned.

21. The applicant/respondent after availing the study leave as was approved by the Central Govt. did not come back to India and prayed for earned leave from 20.08.81 to 17.12.81 and extra-ordinary leave from 18.12.81 to 30.06.84. It has been stated in the writ petition that such leave was granted to the applicant/respondent with the approval of the Govt. of India. If that be so, it was incumbent on the part of the State Govt. to obtain such approval for the period in question also which is from 01.07.84 to 04.07.85. In fact it had written to the Central Govt. to accord approval, However, the Central Govt. rejected the request so made by its above quoted Annexure-III letter dated 12.03.85. The matter attained its finality with the issuance of the said letter and the applicant/respondent never agitated any grievance against the said decision of the Central Govt. However, he by his Annexure-IV letter dated 21.10.85 addressed to the Chief Secretary of the State requested to grant him premature pension benefits. It was four years thereafter the State Govt. by its letter dated 30.05.89 made a request to the Govt. of India to review its earlier decision by which the prayer for regularization of the aforesaid period by granting extra-ordinary leave was rejected. This letter was followed by further letter dated 19.06.90. Admittedly the Central Govt. did not accede to such request of the State Govt.

22. After long 15 years of issuance of the above quoted Annexure-III letter dated 12.03.85 rejecting the request for grant of extra-ordinary leave for the period in question, the State Govt. of its own, regularized the period vide Annexure-VIII notification dated 22.02.2000 purportedly exercising its power under Rule 32 of the All India Service (Leave) Rules, 1955. The period was regularized only for the purpose of pensionary benefits. Such decision of the State Govt. was objected to by the Central Govt. by its Annexure-IX letter dated



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22.02.01 intimating the Chief Secretary of the State that no leave beyond 5 years could be granted. It is in this context, the writ petitioners have referred to Rule 7 of the Rules which provides that no member of the Service shall be granted leave of any kind of a continuous period exceeding 5 years. The applicant/respondent was first granted two years study leave for the period from 20.08.79 to 19.08.81. Thereafter he was granted earned leave and extra-ordinary leave covering the period from 20.08.81 to 17.12.81 and 18.12.81 to 30.06.84 respectively. The applicant/respondent never returned to his service and remained in USA. He once again prayed for extra-ordinary leave for 369 days w.e.f. 01.07.84 which, if granted, will be beyond the maximum period of any kind of continuous leave prescribed under Rule 7.

23. Referring to definition of "Government" under Rule 2(g) (iv) of the Rules, Mr. Borborah, learned counsel for the applicant/respondent, submitted that since the earlier extra-ordinary leave was granted by the State Govt., it was within its competence and jurisdiction to invoke the power of relaxation under Rule 32 of the Rules. This submission will have to be appreciated in the touchtone of Rule 17 of the Rules under which such leave may be granted to a member of the service by the Central in consultation with the State Govt. The applicant/respondent was also granted the study leave as was approved by the Central Govt. vide Annexure-I W.T. message dated 07.09.78 wherein, upon a reference to the Regulation of 1968, the condition of obtaining a bond was also imposed. Such leave was granted with the approval of the Ministries of External Affairs and Finance, Govt. of India. It is the specific case of the Union of India that the said study leave and the extra-ordinary leave were also granted with the approval of the Central Govt. If that be so, the period in question, if is to be regularized by granting extra-ordinary leave, it is only the Central Govt. which alone is empowered to do so and not the State Govt., a fact and position in law all along admitted by the State Govt. for long 15 years.

24. As noted above, the prayer of the applicant/respondent to grant extra-ordinary leave covering the period in question was rejected by the abovequoted Annexure-III letter dated 12.03.85. After such rejection and the period in question having not been regularized, the applicant/respondent could not have prayed for

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premature pension benefits by his Annexure-IV letter dated 21.10.85. The request of the State Govt. to the Central Govt. for a review of the decision yielded no result and the decision of the Central Govt. conveyed vide its letter dated 12.03.85 still holds the field. However, overriding the said decision, the State Govt. issued the notification dated 22.02.2000 after long 15 years granting extra-ordinary leave to the applicant/respondent invoking the power under Rule 32 of the Rules. If the study leave followed by earned leave and extra-ordinary leave was granted with the approval of the Central Govt., further extra-ordinary leave for the period of 01.07.84 to 04.07.85 was also to be granted with the approval of the Central Govt. and not otherwise.

25. Rule 32 empowers "the Government" to deal with the case of the member of the service in such a manner as may appear to be just and equitable upon deriving satisfaction. Initially leave having granted as was accorded by the Central Govt., the grant of extra-ordinary leave for the particular period was also to be accorded by the Central Govt. for which the State Govt., in fact had written to the Central Govt., which, however, was rejected way back in 1985. The matter having attained finality at that point of time, could not have been reopened by the State Govt. by its aforesaid notification dated 22.02.2000 sitting on appeal over the aid decision of the Central Govt. Such a notification is of no consequence.

26. The Apex Court in ***R.R. Verma vs. Union of India*** reported in ***(1980) 3 SCC 402***, dealing with similar provisions under Rule 3 of All India Service (Conditions of Services- Residuary Matters), Rules 1960, observed that the interest to be served is always the public interest and not individual interest. Referring to the various rules including the All India Services (Leave) Rules made under Section 3 of the All India Services Act, it was observed that the Golden thread, which runs through the entire complex fabric of rules is the securing of honest and competent Civil Servants. It was emphasized that integrity and efficiency are the hallmarks of any Civil Servant anywhere and they are what are contemplated and aimed at by the wide range of rules. Public interest, in the matter of conditions of service of Civil Servants, is best served by rules which are directed towards efficiency and integrity. It was further emphasized that such power of relaxation does not mean that the Central Govt. is free to do what they

like regardless of right or wrong; nor does it mean that the Courts are powerless to correct them. The Central Govt. is bound to exercise the power in the public interest with a view to secure Civil Servants of efficiency and integrity and when and only when undue hardship is caused by the application of the rules, the power to relax is to be exercised in a just and equitable manner but, again, only to the extent necessary for so dealing with the case. It was further observed that like all other administrative action affecting rights of the parties, exercising the power of relaxation is subject to judicial review on grounds well known.

27. In the instant case, the State Govt. not only did not follow the above principles, but also exercised the power under Rule 32 without competence and jurisdiction. As noted above, before the Tribunal there was also no challenge to the Annexure III rejection letter dated 12.03.85 and the same still holds the field. In the OA, under the head "**Limitation**", simple statement made was that the application was within limitation without explaining the delay from the date of issuance of the Annexure-III letter dated 12.03.85 by the Govt. of India. So long as the said letter dated 12.03.85 holds the field, the applicant/ respondent is not entitled to the relief prayed for.

28. Section 21 of the Administrative Tribunals Act, 1985 deals with limitation which provides that the Tribunal shall not admit an application unless the application is made within one year from the date on which the final order has been made. Apart from the fact that there was no challenge to the aforesaid letter dated 12.03.85, the OA was filed before the Tribunal long 18 years thereafter. There was also no prayer for condonation of delay. Dealing with the provisions of Section 21 of the Administrative Tribunals Act, 1985, the Apex Court in ***SS Rathore vs. State of Madhya Pradesh*** reported in ***AIR 1990 SC 10***, emphasized on the strict adherence to the limitation prescribed. In the case of ***Secretary to the Govt. of India vs. Shivram Mahadu Gaikwad*** reported in ***(1995) Suppl. (3) SCC 231***, the Apex Court noticing that there was no valid explanation on record for going to the conclusion that the case of condonation of delay was made out, observed that the Tribunal could not have overlooked the delay.

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29. In the case of ***State of Karnataka vs. S.N. Kotarayya*** reported in **(1996) 6 SCC 267**, the Apex Court dealing with provision of Section 21 of the Administrative Tribunals Act, 1985, held the application filed by the respondents to be time barred although the same was filed immediately after coming to know that in similar claims relief had been granted by the Tribunal. Similarly in ***Ramesh Chand Sharma vs. Udhamp Singh Kamal*** reported in **(1999) 8 SCC 304**, the Apex Court referring to the provisions of the Administrative Tribunals Act, 1985, held that the Tribunal could not have admitted the application without there being any prayer for condonation of delay.

30. The OA was filed by the applicant/ respondent without any prayer for condonation of delay and the Tribunal simply overlooked the same. The Tribunal also overlooked the fact that there was no challenge to the aforesaid Annexure-III letter dated 12.03.85 and the decision contained therein still holds the field. The question will necessarily arise as to which one of the decisions, one contained in the Govt. of India's Annexure-III letter dated 12.03.85 and the other contained in Govt. of Assam's Notification dated 22.02.2000 will prevail. For the reasons stated above, we are of the considered opinion that the decision contained in State Govt. notification dated 22.02.2000 will not prevail and the applicant/respondent is not entitled to the benefits of premature retirement unless the period in question is regularized by the Central Govt.

31. Apart from the above, the acceptance of voluntary retirement tendered by the applicant/respondent will also require approval and/or acceptance of the Govt. of India as per the provisions of All India Services (Death-cum-Retirement Benefits), Rules 1958 entitling the applicant to get pensionary benefits. Further, it is the Govt. of India which is empowered to relax the Rules and Regulations in certain cases as per the provisions of All India Services (Conditions of Service Residuary Matters) Rules, 1960. The applicant/ respondent being a member of the All India Services, is governed by the said Rules. Rule 3 of the Rules empowers only the Central Govt. upon deriving satisfaction that the operation of any of the rules made under All India Services Act, 1951 or any regulation made under any such rule, causes undue hardship in any particular case to dispense with or relax the requirements of that rule or regulation to such extent and

subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner.

32. The aforesaid rule came to be considered by the Apex Court in ***RR Verma*** (supra) and ***Amrik Singh vs. Union of India*** reported in (1980) 3 SCC 393. Dealing with the scope and ambit of Rule 3 of the Rules, it was observed that such relaxation cannot be arbitrary as the rule itself contains the guidelines. The Govt. must be satisfied objectively not subjectively, but that any rule or regulation affecting the conditions of service of a member of the All India Services causes undue hardship, then the iniquitous consequence thereof may be relieved against by relaxation of the concerned Rule or Regulation. It was further observed that relaxation must promote the dealing with the case in a just and equitable manner. It was again observed that there is implicit in the Rule, the compliance with natural justice so that nobody may be adversely affected even by administrative action without a hearing.

33. Above are the sound principles relating to relaxation of rules governing the conditions of service of a member of All India Service which the applicant/respondent was. The applicant/respondent abandoned his service after going to USA and after remaining away from duty for about 7 years when he applied for extra-ordinary leave, same was rejected by the Central Govt. by its above quoted letter dated 12.03.85. The relaxation extended by the State Govt. was not in any public interest, but to serve the private interest of the applicant/respondent. While doing so, the State Govt. ignored the mandate, power and jurisdiction of the Central Govt. and on a wrong interpretation of Rule 32 of the All India Services (Leave) Rules, 1955 issued the notification dated 22.02.2000. It also ignored the provisions of Rule 3 of the All India Service (Conditions of Service Residuary Matters) Rules, 1960.

34. The applicant/respondent had rendered service only for a total period of 14 years before proceeding on study leave on 20.08.79. He did not join his duty thereafter even for a single day. On the other hand, he applied for voluntary retirement from service which is governed by Rule 16 (2A) of All India Services (Death-cum-Retirement Benefits), Rules 1958 after remaining absent from duty

for more than 5 years and without regularization of the said period of absence. The acceptance of notice of voluntary retirement will eventually require approval of the Central Govt. as provided under the first proviso to Rule 16 (2A) of the Rules. The learned Tribunal failed to consider all these aspects of the matter and accepted the application filed by the applicant/ respondent and issued direction to the Central Govt. to finalize the process relating to the claim of the applicant/ respondent to provide him premature retirement benefits. We are of the opinion that such a course of action adopted by the Tribunal is wholly untenable.

35. For all the aforesaid reasons, we are of the opinion that the impugned judgment and order dated 05.04.2004 passed by the Administrative Tribunal, Guwahati Branch in O.A. No. 15/2003 is not sustainable in law and accordingly it is set aside and quashed. We hasten to add that it will be open for the applicant/respondent to pursue the matter with the Central Govt. agitating his grievance. In such an eventuality, it will be open for the Central Govt. to review its decision, if so advised.

36. The writ petition is allowed subject, however, to the aforesaid observations and leaving the parties to bear their own costs.

Sd/- B.K.SHARMA
JUDGE

Sd/- RANJAN GOGOI
JUDGE

Memo No. HC XXI. 11, 816 - 19 R.M. Dtd. 29/06/09

Copy forwarded for information and necessary action to:-

1. Shri Dilip Kumar Das, IPS (Retd.), resident of 283, Carolanne Drive, Delmar, New York - 12054, USA
2. The State of Assam, represented by the Commissioner & Secretary, Home Department, Govt. of Assam, Dispur, Guwahati-6.
3. The Account General, Assam, Pension/Loan and GE-4 Section, Maidamgaon, Beltola, Guwahati-29.
4. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati-5, Assam. He is requested acknowledge the receipt of the following records.

Enclo:-

1. O.A. No.15/2003
2. O.A. No.15/2003

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

865
30 JUN 2009

Guwahati Bench
गुवाहाटी न्यायालय

SO (J)
N.S.
30.6.09

By order

Asstt. Registrar (B)
Gauhati High Court, Guwahati.

3/3/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 111 15/2003.

DATE OF DECISION 5.4.2004

.....Sri. D.K. Das.....APPLICANT(S).

.....Mr. K.P. Pathak, Mr. S.K. Sarma, P.N. Goswami ADVOCATE FOR T
APPLICANT(S).

-VERSUS-

Union of India, & Ors.RESPONDENT(S)

.....Mr. A.K. Chaudhury, Addl. C.G.S.C.ADVOCATE FOR T
Mrs. M. Das, G.A. , Assam RESPONDENT(S).

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

THE HON'BLE

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 Member (A).

CENTRAL ADMINISTRATIVE TRIBUNAL :::: GUWAHATI BENCH :::

Original Application No. 15/2003.

Date of Order : This the 5th day of April, 2004.

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

Sri Dilip Kr. Das, IPS, (Retd.)
Resident of 283, Carolanne Drive,
Delmar, New York - 12054,
USA.

... . . . Applicant.

By Advocates Mr. K.P. Pathak, Sr. Advocate,
Mr. S.K. Sarma, Mr. P.N. Goswami.

- VERSUS -

1. The Union of India,
Represented by the Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi - 1.
2. The State of Assam,
Represented by the Commissioner & Secretary,
Home Department,
Govt. of Assam, Dispur, Guwahati- 6.
3. The Accountant General, Assam,
Pension/Loan and G.E. - 4 Section
Maidamgaon, Beltola,
Guwahati - 29. . . . Respondents.

By Mr. A.K. Chaudhury, Addl. C.G.S.C.
for the Respondent No. 1.

Mrs. M. Das, G.A., Assam for the Respondent Nos. 2 & 3.

O R D E R

K.V. PRAHLADAN, MEMBER (A):

The applicant was an IPS Officer of Assam Cadre. He was on study leave w.e.f. 20.08.1979 to 19.08.1981, on E.L. w.e.f. 20.08.1981 to 17.12.1981 and on EOL w.e.f. 18.12.1981 to 4.7.1985. He took retirement from service on 21.10.1985 while he was in USA. His voluntary retirement was accepted by the State Government. No pensionary benefit has been paid to the applicant till now. As per Govt. of India, Ministry of Home Affairs letter dated 22.02.2001 (Annexure - B) only ^{Central Govt} ~~State~~ Government is

competent to regularise absence in excess of 5 years. However, no provision is mentioned in the said letter. The Order dated 14th May, 2003 (Annexure - D) from the Ministry of Home Affairs requested some clarification from the State Government but the same is still awaited. Since there is no communication from the Ministry of Home Affairs and the State Government has not taken any action. After 19 years of retirement of the applicant, no pensionary benefit has been given to the applicant.

2. The Respondents stated that relaxation of excess of 5 years lies with the Central Government only. However, learned counsel for the applicant pointed out that absence in excess of 5 years under Rule 32 of the AIS (Leave) rules 1955, the power to relax any provision lies with the State Government.

3. Heard Mr. P.N. Goswami, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the Respondent No. 1 and Mrs. M. Das, learned G.A. for the State of Assam for the respondent Nos. 2 and 3.

4. Rule 2(g)(iv), AIS (Leave) Rules 1955 defines Government as the Government which sanctions leave. As per Rule 32 All India Service (Leave) Rules, 1955 the State Government is competent to ~~give~~ waive any conditions relating to the leave rules if it causes undue hardships to the Officer concerned. The State Government has implemented the provision of this rule in their letter dated 22.2.2000 at Annexure - II. Therefore, there is no impediment in the way of the Govt. of Assam in processing and finalising the pension case of the applicant and forward them to the competent authority so that payment of

post-retirement benefits are made immediately. The Respondent No. 2 is directed to complete this entire exercise within two months from the date of receipt of this order.

This application is accordingly allowed to the extent indicated above. No order as to costs.

K.V. Prahладан
(K.V. PRAHLADANA)
ADMINISTRATIVE MEMBER

mb

Filed by: P. N. Goswami
Advocate. 2
5/4/84

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. 15 OF 2003

BETWEEN

Sri Dilip Kr. Das, IPS, (Retd.),
...Applicant.
AND
The Union of India & Ors.
.....Respondents.

LIST OF DATES & WRITTEN ARGUMENTS ON BEHALF OF THE APPLICANT

1. The applicant was appointed to the IPS (Assam Cadre) in 1965 and in 1978, the applicant applied for study leave to undergo a special course on Criminal Justice in USA and the same was granted to the applicant on 7/9/1978 for two years and the applicant proceeded for USA on 20/8/1979.

2. Thereafter the applicant completed the special course before the Scheduled Period and the Govt. of Assam allowed the applicant to utilize the remaining study leave for doing Ph.D.. On 19/8/1981, the study leave as granted to the applicant was completed and the applicant applied for extra-ordinary leave and a leave upto 30/6/1984 was granted to the applicant. The applicant could not complete his Ph.D. within 30/6/1984 and the applicant again applied for extension of extra-ordinary leave but the same prayer was not accepted by the Ministry of Home Affairs, Govt. of India and thereafter, the applicant applied for pre-mature retirement on 21/10/1985.

3. Thereafter, the DIG, (Admn), Assam forwarded the applicant's retirement letter to the Respondent NO.2 and also forwarded the applicant's prayer for premature pension benefits, but in order to get pensionary benefits as per Rule (All India Services, (DCRB) Rules 1958, the applicant required a grant of extra-ordinary leave for 369 days.

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4. On 30/5/89, the Govt. of Assam wrote to the MHA that the case of the applicant may be considered sympathetically and the State Govt. had agreed to grant leave for 369 days. Thereafter, the Govt. of Assam exercising power under Rule 32 of the All India Services (Leave) Rules, 1955 granted the leave w.e.f. 1/7/84 to 4/7/85.

5. Although, the leave was granted the applicant did not receive any pensionary benefits, so the applicant approached the Govt. of Assam and he was told that the Govt. of Assam is waiting for response of the MHA. However, the applicant was informed that the State Govt. need not have to wait for MHA response. So on 3/1/2001, the applicant wrote to the MHA to inform the Govt. of Assam. On 10/1/2001, the applicant wrote to the Chief Secy, Govt. of Assam about the aforesaid position.

6. On 16/3/2001, the IGP, OSD/MPE dispatched blank pension paper to the applicant and on 2/4/2001, the applicant submitted his pension paper. On 29/6/2001, the IGP(A) forwarded pension papers to the Respondent No.2, requesting kindly to forward the pension case to the Accountant General, (Respondent No.3).

7. On 9/2/2002 and 7/7/2002, the applicant made two representations before the Respondent Authorities, but till today there has not been any payment in connection with the pensionary benefits due to the applicant.

Being aggrieved, the applicant filed the present application before this Hon'ble Tribunal.

CONTENTIONS OF THE RESPONDENTS

The Respondent No.1 although entered appearance, has not filed any written statement in the instant application.

The Respondent No.2 filed a written statement wherein, the Respondent No.2 contended that the premature retirement

(3)

applied by the applicant vide letter dated 21/10/1985 could not be finalised due to non-regularisation of the period w.e.f. 1/7/1984 to 4/7/1985 (369) days and for want of Govt. of India's approval to treat this period as extra-ordinary leave. Although, the matter was taken up with the Ministry of Home Affairs, the Ministry refused to approve the grant of extra-ordinary leave. As the same has not been found possible to accede. On receipt of a representation made by the applicant, the Govt. of Assam reviewed the matter and decided to grant extra-ordinary leave of 369 days by exercising power under Rule 32 of the AIS (Leave) Rules, 1955 and Ministry of Home Affairs ^{was} also requested to treat the above period as qualifying service. However, the Govt. of India vide letter dated 14/5/2003 has intimated that the reference is under examination and any decision taken shall be intimated by the State Govt. and as such, the State Govt. is awaiting for the decision of the Central Govt..

ARGUMENTS

The applicant initially went on study leave for a period of two years, which was subsequently, extended by another 3 years as Extra-Ordinary Leave upto 30/6/1984 and again applied for extension of extra-ordinary leave for one year but the same was refused.

As per Rule 7 (1) of the All India Services (Leave) Rules, 1955:- No member of the service shall be granted leave of any kind of a continuous period exceeding five years.

On the basis of the aforesaid Rule, the applicants prayer for extension of Extra-Ordinary leave was rejected. The applicant instead of coming back to India preferred to go on voluntary reitrement and applied for the same and prayed for premature pension benefits.

But as per Rule 16 (2-A) of All India Services (DCRB) Rules, 1958:- A member of the service may, after giving 3 months previous notice in writing to the State Government concerned,

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(4)

retire from Service on the date on which he completes 20 years of qualifying service or any date thereafter specified in the notice:

Provided that a notice of retirement given by a member of the Service shall require acceptance by the State Government concerned if the date of retirement on the expiry of the period of notice would be earlier than on date which the member of the service could have retired from service under Sub-Rule (2):

And the applicant required a grant of extra-ordinary leave for 369 days in order to complete 20 years of service. The Govt. of Assam in exercise of powers delegated under Rule 32 of the AIS (Leave) Rules, 1955 had already granted extra ordinary leave vide Notification dated 22/2/2000 (Annexure 11 O.A.) for a period of 369 days to the applicant.

Rule 32, AIS (Leave) Rules, 1955:

32. Relaxation of the provisions of the Rules in individual cases. Where the Government is satisfied that the operation of any ~~any~~ of these rules causes or is likely to cause undue hardship to a member of the Service, it may, after recording its reasons for so doing and notwithstanding anything contained in any of these rules, deal with the case of such member in such manner as may appear to it to be just and equitable;

The contention of the Respondent No.1 is that the proper authority to exercise power under the aforesaid Rule 32 is the Govt. of India and not the State Government. In this regard, the applicant would like to rely Rule 2 (g)(IV) of the AIS (Leave) Rules, 1955.

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(5)

Rule 2(g) (IV):- 'Government' means -- in the case of a member of the Service on leave, the Government, who sanctioned him the leave.

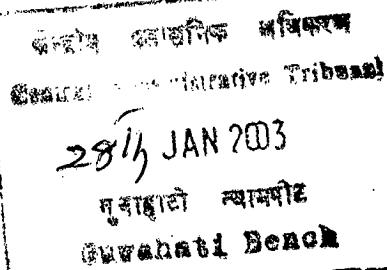
In the present case, although, the petitioner was initially on study leave for two years but another leave of 3 years was granted to the petitioner in the form of extra-ordinary leave and as such, just before retirement, the applicant was on extra-ordinary leave which was granted by the State Government and accordingly, as per Rule 2(g) (IV) of AIS (Leave) Rules, 1955, the State Government comes under the definition of Government and hence, State Government is the proper authority to exercise power under Rule 32 of the aforesaid Rules.

As the State Government has already exercised its power under Rule 32, so the Respondent No. 1 has nothing to object in view of the aforesaid provisions.

Moreover, the applicant applied for premature retirement in the year 1985 whereas, as per the Annexure-IV of the written statement filed by the Respondent No.2, it is clear that the Respondent No.1 after completion of almost 18 years is still examining the matter and as such, the Respondents are liable to be directed by this Hon'ble Tribunal to dispose of the grievances of the applicant within a stipulated period.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
 (An application under Section 19 of the Central Administrative
 Tribunal Act, 1985.

Title of the Case : O.A. NO. 15 OF 2001

Dilip Kr. Das. Applicant.

-VERSUS-

Union of India & Anr. Respondents.

I N D E X

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For use in Tribunal's Office

Registration NO.	
Date of Filing.	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An application under Section 19 of the Central Administrative Tribunal Act, 1985.)

O.A.NO. 5 OF 2003

BETWEEN

1. Sri Dilip Kr. Das, IPS, (Retd.),
Resident of 283, Carolanne Drive,
Delmar New York-12054,
USA.

....Applicant.

AND

1. The Union of India,
Represented by the Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi-1.

2. The State of Assam,
Represented by the Commissioner & Secretary,
Home Department,
Govt. of Assam. Dispur, Guwahati-6.

3. The Accountant General, Assam,
(Pension/Loan and G.E-4 Section)
Maidamgaon, Beltola,
Guwahati-29.

....Respondents.

DETAILS OF APPLICATION

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

Contd....p/

3
Filed by, through
Dilip Kr. Das, Advocate
P.N.Gowani, Advocate
28/11/2003

(i) Non-finalisation of the pension and other retirement benefits due to the applicant.

(ii) Non-sanctioning of the pension and other retirement benefits to the applicant by the Respondents despite pension papers being forwarded by the Inspector General of Police, (Admn), Assam, Guwahati vide Memo No.E/11-17814/IPS/2001/22 dated 29/6/2001.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:

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

4. FACTS OF THE CASE:-

4.1 That the applicant is a citizen of India and permanent resident of aforementioned locality and as such he is entitled to all the rights and protection guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That the applicant was appointed to the Indian Police Service (Assam cadre) by direct recruitment in the year 1965 by Notification dated 15/12/1965 under Memo No.HPL.567/64/185-A and on being released from the Central Police Training College, Abu the applicant was attached to the Darang District with headquarters at Dhubri by notification

Contd....p/

Dilip Kr. Das.

[3]

date 9/11/1966 under Memo no. HPL.567/64/251. Thereafter the applicant served in various capacities at different places of posting.

Copies of the Notification dated 15/12/1965 and 9/11/1966 are annexed herewith and marked as ANNEXURE 1 & 2 respectively.

4.3 That in the year 1978 the applicant applied for study leave to undergo special course on Criminal Justice in the Michigan State University, U.S.A. and after considering the same the Ministry of Home Affairs, New Delhi vide order dated 7/9/1978 under Memo no. 1-45027/2/78-IPS approved the grant of study leave to the applicant for a period of two years for completing the above mentioned course.

A copy of the order dated 7/9/1978 is annexed herewith and marked as ANNEXURE-3.

4.4 That thereafter the applicant proceeded on study leave to U.S.A. for a period of two years with effect from 20/8/1979 upon approval being granted by the State Govt. vide Govt. Notification dated 20/8/1979 under Memo no. HMP.119/78.

A copy of the Notification dated 20/8/1979 is annexed herewith and marked as ANNEXURE-4.

4.5 That the applicant completed the special course of study in Criminal Justice in the Michigan State University, U.S.A. before the Scheduled period and thereafter, the Govt. of Assam allowed the applicant to utilise the study leave as granted by Notification No.HMP.119/78/86 dated 20/8/79 for the period upto 19/8/81 beyond the date of completion of study in the Michigan State University for doing Ph. D. in Criminal Justice in the Sam Houston State University, Huntsville, Texas, U.S.A. vide Notification No.HMP 1042/72/162-A

Contd....p/

Dilip Kr. Das.

dated 26/2/82.

A copy of the Notification dated 26/2/82 is annexed herewith and marked as ANNEXURE-5.

4.6 That on the completion of the study leave on 19/8/81 as granted by Notification No.119/78/86 dated 20/8/79, the applicant applied for extra-ordinary leave upto 30/6/84 to complete his Ph.D. and accordingly the leave was granted to the applicant, but as the applicant could not complete the Ph.D. within the Scheduled date, i.e., 30/6/84, the applicant again applied for extension of extra-ordinary leave for one year with effect from 1/7/84 but the same was not accepted by the Ministry of Home Affairs, Govt. of India and by a letter dated 12/3/1985 under Memo No.I/45027/2/78-IPS, the MHA, Govt. of India communicated the same.

A copy of the letter dated 12/3/1985 is annexed herewith and marked as ANNEXURE-6.

4.7 That although, the application for extra-ordinary leave was not accepted by the MHA, Govt. of India the applicant did not returned back to India and the applicant applied for premature retirement vide letter dated 21/10/85.

A copy of the letter dated 21/10/85 is annexed herewith and marked as ANNEXURE-7.

4.8 That thereafter, the DIG(A), Assam forwarded the applicant's retirement letter to the Commissioner & Secretary, Department of Home, Government of Assam, i.e., Respondent No. 2 vide letter dated 12/11/85 under Memo No.FA/XXII-781/258 and also communicated the applicant's prayer for premature pension benefits in order to obtain the Govt.'s orders in this regard.

Contd....p/

Dilip Kr. Das.

A copy of the letter dated 12/11/85 is enclosed herewith and marked as ANNEXURE-8

4.9 That the applicant was appointed to I.P.S. w.e.f. 5-7-65 and he remained in service uptill 1/7/1984, thereby rendering service in the Police Department for 19 years. In order to get pensionary benefits as per Rule (AIS Leave Rules, 1955) the applicant required a grant of extraordinary leave for 369 days and several correspondences took place between the Govt. of Assam and Ministry of Home Affairs, Govt. of India for waiving the recovery of the amount for study leave and also to grant extra-ordinary leave for 369 days to enable the applicant to get pensionary benefits. Although, the applicant had already left service, but no formal order of voluntary retirement was passed.

4.10 That the Deputy Secretary to the Govt. of Assam, Department of Home, ultimately vide Letter dated 30/5/89 under Memo No.HMA(IPS)33/257 wrote to the Secretary, Ministry of Home Affairs, Govt. of India i.e., the Respondent No.1 that the State Govt. felt that the case of the applicant may be considered sympathetically in view of the fact that the applicant lost his wife in a serious car accident which left the applicant badly impaired physically and mentally resulting in his ultimate decision to go on voluntary retirement and the State Govt. after considering all the aspects had agreed to grant extra-ordinary leave for 369 days to enable the applicant to get pensionary benefits.

A copy of the letter dated 30/5/89 is annexed herewith and marked as ANNEXURE-9.

4.11 That thereafter, the Special Commissioner & Special Secretary, Govt. of Assam, Department of Home, after considering all the aspects of the applicant's case on the compas-

Contd....p/

Dilip Kr. Das.

39

[6]

sionate grounds intimated to the Joint Secretary, Govt. of India, Ministry of Home Affairs vide letter dated 19/6/1990 under Memo No.HMH(IPS) 33/264 that the State Govt. has decided to grant pensionary benefits and to waive recovery of study leave amount and requested the Ministry of Home Affairs to grant 36 days extra-ordinary leave to the applicant.

A copy of the Order dated 19/6/1990 is annexed herewith and marked as ANNEXURE-10.

4.12 That thereafter, the Deputy Secretary, Govt. of Assam, Department of Home vide Notification dated 22/2/2000 under Memo No.HMA(IPS)33/279 granted extra-ordinary leave for a period of 369 days to the applicant w.e.f. 1/7/84 to 4/7/85 under AIS(Leave) Rules, 1955 in exercise of powers delegated under Rule 32 of the AIS (Leave) Rules 1955 to enable the applicant to get pensionary benefits.

A copy of the Notification dated 22/2/2000 is annexed herewith and marked as ANNEXURE-11

4.13 That thereafter also, the applicant did not received any pensionary benefits and approached the Govt. of Assam to inquire as to why the pensionary benefits has not been granted and the applicant was told that Govt. of Assam is waiting for response of the Ministry of Home Affairs, Govt. of India. However, the applicant was informed by the Ministry of Home Affairs that under the Rule 16(2A) of the AIS DCRB Rules, 1958, the State Govt. need not have to wait for the responses from the Ministry of Home Affairs, Govt. of India. Hence, the applicant wrote to the Ministry of Home Affairs, requesting it to inform the Govt. of Assam about the said position vide letter dated 9/1/2001.

A copy of the letter dated 9/1/2001 is annexed herewith and marked as ANNEXURE-12.

Dilip Kr. Das.

Contd....p/

4.14 That thereafter on 10/1/2001, the applicant wrote a letter to the Chief Secretary, Govt. of Assam intimating that it is upto the State Govt. to take the necessary steps to grant the applicant the pensionary benefits in view of the fact that the Govt. of Assam has already granted voluntary retirement to the applicant and the State Govt. need not have to wait for the responses from the Ministry of Home Affairs, Govt. of India.

A copy of the letter dated 10/1/2001 is annexed herewith and marked as ANNEXURE-13.

4.15 That the, Inspector General of Police, OSD/MPC, Govt. of Assam in response to the letter dated 10/1/2001 written by the applicant despatched blank pension paper in quadriuplicate to the applicant in connection with the applicants pension proposal vide letter dated 16/3/2001 under Memo NO.E/II-17, 814/IPS/10. Thereafter, the applicant submitted his pension papers on 2/4/2001, but till now there has not been any payment in connection with the pensionary benefits due to the applicant.

A copy of the letter dated 16/3/20001 is annexed herewith and marked as ANNEXURE-14.

4.16 That the IGP(Admn.) vide letter dated 29/6/2001 under Memo NO. E/11-17814/IPS/20001/22 forwarded the pension papers and documents to the Commissioner & Secretary, Govt. of Assam, Department of Home, i.e., the Respondent No.2 and made a request to kindly forward the pension case to Accountant General, Assam for effecting early settlement of pension/DCRG at an early date.

A copy of the letter dated 29/6/2001 is annexed herewith and marked as ANNEXURE- 15.

Contd....p/

Dikip Ho. Das.

4.17 That the applicant has been pursuing the matter in the department concerned but till date no action has been taken by the Respondents in this regard. The applicant also made two representations before the Respondent Authorities on 9/2/2002 and 7/7/2002.

4.18 That the action of the Respondents in not initiating necessary measures for sanctioning of the applicant's pensionary benefits is most arbitrary, illegal and violative of the applicant's constitutional and other legal rights and hence, the Respondents are liable to be directed to forthwith initiate necessary action for sanctioning of the applicant's pensionary benefits.

4.19 That is is respectfully submitted that is is a fit case where this Hon'ble Tribunal may be pleased to intervene in the matter in an appropriate manner and grant the reliefs as prayed for by the applicant. If the same is denied the applicant would suffer irreparable loss and injury.

4.20 That there is no other adequate equally efficacious alternative remedy available and the reliefs sought for, if granted would be just, proper and adequate.

4.21 That the applicant demanded justice and the same was denied to him.

4.22 That this application is filed bonafide and in the interest of justice.

Contd....p/

Dilip Kr. Das.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that, the applicant has been granted extraordinary leave for a period of 369 days w.e.f. 1-7-84 to 4-7-85 under AIS (Leave) Rules 1955 under Rule 32 so as to enable the applicant to get the pensionary benefits and under Rule 16(2A) of the AIS DCRB Rules 1958, the State Govt. is the competent authority for sanctioning the pensionary benefits. Hence, the applicant entitled to receive full pensionary/retirement benefits under the provisions of the All India Services (Death-cum-Retirement Benefits) Rules, 1958 and other relevant rules as applicable.

5.2 For that, as the IGP (Admn) has already forwarded the pension papers of the applicant to the Commissioner and Secretary, Department of Home, Govt. of Assam with the requested to forward the pension case to the Accountant General, Assam so the respondent authorities are duty bound to sanction the pensionary benefits in favour of the applicant.

5.3 For that, the impugned action of the Respondents are most arbitrary, illegal and unreasonable and the same are violative of the applicant's constitutional and other legal rights and hence, liable to be interferred with by this Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

Contd....p/

Dilip Kr. Das.

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[10]

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

The applicant further states that no application, writ petition or suit regarding the grievances made in this instant application is pending before any Court or any other bench of this Hon'ble Tribunal.

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, it is most respectfully prayed that your Lordships would be pleased to admit this petition, call for the records and upon hearing the parties and on perusal of the records be pleased to grant the following reliefs:

- (i) A direction/order to the Respondent Authorities to forthwith release the pensionary benefits which is due to the applicant, along with arrears thereof with interest.
- (ii) A direction/order to the Respondent Nos. 2 and 3 to finalise the pension and other retirement benefits as may be due to the applicant.
- (iii) cost of the application.
- (iv) Any other relief/reliefs that the applicant is entitled to in the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application, it is further prayed that the Hon'ble Tribunal may be pleased to direct the Respondent Authorities to take immediate steps for sanctioning the pensionary benefits to the applicant.

Dilip. Kr. Das.

Contd....p/

[11]

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. NO. : 7G 605357

(ii) Date : 28/11/2003

(iii) Payable at : Guwahati.

12. List of Enclosures:

As stated in the Index.

VERIFICATION.

Dilip Hr. Das.

Contd....p/

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

I, Sri Dilip Kr. Das, IPS, (Retd.), Resident of 283, Carolanne Drive, Delmar New York-12054, USA aged about 65 years, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs1-12..... are true to my knowledge and those made in paragraphsX...X..... being matter of records are true to my information.

I have not suppressed any material fact.

And I sign this verification on this 28. th day of January, 2003 at Guwahati.

Dilip Kr. Das.

(SRI DILIP KR DAS)

ANNEXURE - I

A-1

(13)

Dated Shillong, the 13th December, 1964.

No. NPL. 587/34/18c - The following notification issued by the Government of India is republished for general information :-

No. 3/2/C-ALS(I) dated 2.12.64 - Under sub-rule (I) of rule 4 of the Indian Police Service (Cadre) Rules, 1964, the following Indian Police Service probationers appointed on the results of the combined competitive examination held in 1964, are allotted to the Cadres shown against their names :-

Sl.no.	Name	Cadre of allotment.
2.	Shri Dilip Kumar Das.	Assam
3.	Shri Jayalath Malakanwotil Ramachan	Assam
4.	Shri Chandra Nath Jha	Assam
5.	Shri Arvind Kumar Misra	Assam
6.	Shri Jayanta Banta Dash	Assam
7.	Shri Pratik Lal Ranjana	Assam
8.		Assam

Sd/- S.P. Hazarika,
Deputy Secretary to the Govt. of Assam,
Home Department.

Name No. NPL. 587/34/18c - A,

Dated Shillong, the 13th December, 1964.

Copy for record to :-

1. The Inspector General of Police, Assam, Shillong.
2. The Accountant General, Assam & Nagaland, Shillong.
3. The Subdit, Govt. Press, Shillong for publication in the next issue of the Gazette and supplying this Department with 14 spare copies.
4. Personal files of the 6 officers.

By Order of the Governor of Assam,

Sd/- S.P. Hazarika,
Deputy Secretary to the Govt. of Assam,
Home Department.

S.D.O.

Certified to be
true copy

P. N. Grewal

- 2 -

Memo No. F/XX/10/53, Dated Shillong, the 1st December, 1966.

As directed copy forwarded to :-

- (1) Superintendents of Police, Darrang, Goalpara, United K & J Hills, Cachar and Lakhimpur for information and action.
- (2) Deputy Inspector General of Police, Western Range, Gauhati, Deputy Inspector General of Police, Southern Range, Shillong and Deputy Inspector General of Police, Eastern Range, Dergaon for information.
- (3) Personal file of the Officer concerned.
- (4) Superintendent of Police, Sibsagar, Jorhat.

Mr. W. W. W.
Deputy Inspector General of Police(P)
Assam.

M. Laloo/29/11.
C.R.C./29/11.

*Certified to Mr
true copy
P.N. Chawla*

Annexure - 2.

(215)

ORDERS BY THE GOVERNOR

NOTIFICATION.

Dated Shillong, the 9th November, 1966.

No.UPL.567/64/251 - On release from the Central Police Training College, Abu, the following IPS Probationers are attached to the Headquarters of the districts as noted against each for practical training in the District Police Work for a period of one year.

1. Shri Man Mohan Sager, IPS - Darrang District with HQ at Tezpur.
- ✓ 2. Shri Dilip Kr. Das, IPS - Goalpara District with HQ at Dhubri.
3. Shri Edavelth Nalaamoveetil Rammohan, IPS. - Sibsagar District with HQ at Jorhat.
4. Shri Bindhya Nath Jha, IPS - United K&J Hills District with HQ at Shillong.
5. Shri Promode Kumar Misra, IPS - Cachar District with HQ at Silchar.
6. Shri Fanai Lal Rem Siama, IPS - Lakhimpur District with HQ at Dibrugarh.

Sd/- S.P. Hazarika,
Deputy Secretary to the Govt. of Assam,
Home Department.

Memo No. HPL.567/64/251-A, Dated Shillong, the 9th November, 1966.

Copy forwarded to :-

1. The Director, Central Police Training College, Abu for information and necessary action with reference to his letter No.77/12/66-Trg. dated 11.10.66 addressed to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi-11. The Probationers concerned may please be instructed to report to the Superintendents of Police of the Districts concerned on arrival in Assam, 6 spare copies of the Notification are enclosed for transmission to the Probationers concerned.
2. The Inspector General of Police, Assam, Shillong with reference to his letter No.F/XX/10/52, dated 3.11.66.
3. The Accountant General, Assam & Nagaland, Shillong.
4. The Under Secretary to the Govt. of India, Ministry of Home Affairs New Delhi-11, with reference to the Ministry's letter No.4/40/66-AIS(III), dated 27-10-66.
5. The Special Officer, Assam Government Press, Shillong for publication in the next issue of the Gazette and supplying this Department with 15 spare copies.
6. Personal files of the Officers.

By Order of the Governor of Assam,
Sd/-S.P. Hazarika,
Deputy Secretary to the Govt. of Assam.
Home Department.

certified to be
true copy.

P.W. Govt. of Assam

Annexure - 3

(16)

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8/8

TO CHIEF SEC ASSAM DISPUR
INFO INSPECTOR GENERAL OF POLICE ASSAM DISPUR
FM HOME NEW DELHI
NO. 1-45027/2/78-IPS 7/9/78 : UKC

REFERENCE CORRESPONENCE RESTING STATE GOVERNMENT'S WIRELESS MESSAGE NO. HMP/119/78/33 DATED 17/7/1978 REGARDING GRANT OF STUDY LEAVE TO SHRI D K DAS, IPS (RR-1965): FOR A PERIOD OF TWO YEARS TO COMPLETE A MASTER OF SCIENCE DEGREE COURSE IN CRIMINAL JUSTICE IN THE SCHOOL OF CRIMINAL JUSTICE, MICHIGAN STATE UNIVERSITY U.S.A. (-) APPROVAL OF THE GOVERNMENT OF INDIA IS HEREBY CONVEYED TO THE GRANT OF STUDY LEAVE TO SHRI D K DAS FOR A PERIOD OF TWO YEARS FOR COMPLETING THE ABOVE MENTIONED COURSE IN U.S.A. (.) MINISTRIES OF EXTERNAL AFFAIRS AND FINANCE HAVE ALSO AGREED IN THE MATTER OF (.) BOND REQUIRED UNDER REGULATION 9(1) OF AIS (STUDY LEAVE) REGULATIONS, 1960 BE OBTAINED FROM THE OFFICER

KTOO NIL THI 1330 SD BY MCK AT 1350 TKS
RD BY NK

Passwd to S. P. S.
Please pass 15/10/78
S. P. S.
S. P. S.

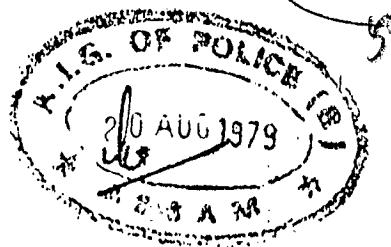
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certified to be
true copy
P. N. Ghorawal

(F)

Annexure - 4
I.G.P. maylike bsc.ORDERS BY THE GOVERNOR
OF ASSAM

NOTIFICATION



Dated Dispur, the 26th Aug/79.

No. HMP 119/78/

Subject to admissibility to be certified by the Accountant General Assam, Shri D.K.Das, IPS, Supt. of Police, Bureau of Investigation, (Economic Offences), Agnani, Gauhati in granted study leave for 24 (Twenty four) months with effect from 26.8.79 under Rule 3(I) (i) of the A.I.S (Study Leave) Regulation 1960 for a special course of M.R. study in Criminal Justice in the Michigan State University, U.S.A. which is a professional subject having a direct and close connection with the sphere of his duty.

It is also certified as required under Rule 3(2) (i) and Rules 3(2) (ii) of the A.I.S (Study Leave) Regulations 1960 that the above course of study is a definite advantage from the point of view of public interest and that the said course of study is on a subject other than academic or Literary.

He would have continued to hold a senior scale post in the IPS but for his proceeding on Study Leave.

sd/- (J. HAZARIKA)
Secretary to the Govt. of Assam,
Home Department.

Memo No. HMP 119/78/

Copy to:- 1. The Accountant General, Assam, Shillong. The bond required for this purpose has already been received from the Officer concerned.

2. The Inspector General of Police, Assam, Ulubari, Gauhati-21 with reference to his letter No. F/XXII/78/213 dt. 17.8.79. for information.

3. The Director (Police), Govt. of India, Ministry of Home Affairs, New Delhi-110001. This has their approval communicated to the State Government vide their message No. 1-45027/2/78-IPS dt. 7.9.78.

4. The Supt. Assam Govt. Press, Bamunimaidan, Gauhati-21 for publication of the notification in the next issue of the Assam Gazette.

5. Shri D.K.Das, IPS, Supt. of Police, Bureau of Investigation(E.O.), Assam, Gauhati. with reference to the letter No. F/XXII/78/213 dt. 17.8.79.

6. The Director, Bureau of Investigation(E.O.), Assam, Gauhati.

By Order, etc.,

sd/- (J. HAZARIKA)
Secretary to the Govt. of Assam,
Home Department.

Initiated to
for
P.M. B.C. 1979

17.03.79
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J.H.

F(A)

ORDERS BY THE GOVERNOR
HOME DEPARTMENT :::: (A) BRANCHNOTIFICATION

Dated Dispur, the 26th Feb.82.

No.HMP.1042/72/162 : Consequent upon the completion of a special course of study in Criminal Justice in the Michigan State University, U.S.A. before the scheduled period, Shri D. K. Das, IPS is allowed to utilise the study leave, as granted in this Department's Notification No.HMP.119/78/86, dated 20.8.79 for the period upto 19.8.81 beyond the date of completion of his study in the Michigan State University for his doing Ph.D. in Criminal Justice in the Sam Houston State University, Hunts-Ville. Texas, U.S.A.

Sd/- A. Perti.

Deputy Secretary to the Government of Assam,
Home (A) Deptt.

Memo No.HMP.1042/72/162-A,

Dated Dispur, the 26th Feb.82.

Copy forwarded to :-

1). The Accountant General, Assam, Shillong.

In pursuant to the notification as above, Shri D. K. Das, IPS is allowed to draw Study Allowance as sanctioned in this Department's letter No.HMP.119/78/Pt/61, dated 5.4.80 for the period upto 19.8.81 beyond the date of completion of his study in the Michigan State University, U.S.A., provided that he was not in receipt of any scholarship, assistancehip or did not do any full time or part time work for that period.

Shri D. K. Das, IPS moved from Michigan State University to Sam Houston State University, Hunts-Ville, Texas on 1.1.81.

✓2). The Director General of Police, Assam, Ulubari, Gauhati - 7.

3). The Director (Police), Govt. of India, Ministry of Home Affairs, New Delhi-110001. This has the approval of Govt. of India vide their letter No.I-45027/2/78-IPS, dated 21.5.81.

4). Shri D. K. Das, IPS, 1400-22nd Street, Apartment Number 26, Hunts-Ville, Texas, 77340 (U.S.A.).

Contd...2.

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3/3/82intended to
be sent

J.S. 26/2/82

5). The Indian Embassy in Washington (through Govt. of India, Ministry of Home Affairs, New Delhi). This refers to the Embassy's telegram dated 6.2.81. They are requested kindly to make necessary payment of Study Allowance to Shri D. K. Das, IPS upto 19.8.81 beyond the date of completion of his Study in the Michigan State University subject to fulfilment of conditions in this Department's letter No.HMP.119/78/Pt/61, dated 5.4.80 and on the conditions as mentioned in the Memo to Accountant General, Assam as above.

6). Finance (Estt-A) Department. This has their concurrence vide their U.O No.FE.186/82, dated 18.2.82.

7). The Supdt., Assam Govt. Press, Barunimaidan, Gauhati-21 for publication in the Assam Gazette.

By order etc.,

~~Abhijit~~ 26/1/82

Deputy Secretary to the Government of Assam,
Home (A) Deptt.

S.K.das/

5). The Indian Embassy in Washington (through Govt. of India, Ministry of Home Affairs, New Delhi). This refers to the Embassy's telegram dated 6.2.81. They are requested kindly to make necessary payment of Study Allowance to Shri D. K. Das, IPS upto 19.8.81 beyond the date of completion of his Study in the Michigan State University subject to fulfilment of conditions in this Department's letter No.HMP.119/78/Pt/61, dated 5.4.80 and on the conditions as mentioned in the Memo to Accountant General, Assam as above.

6). Finance (Fstt-A) Department. This has their concurrence vide their U/O No.FE.186/82, dated 18.2.82.

7). The Supdt., Assam Govt. Press, Bamunimaidan, Gauhati-21 for publication in the Assam Gazette.

By order etc.,

Allo W/Pmt 26/1/82

Deputy Secretary to the Government of Assam,
Home (A) Deptt.

S.K.das/

certified to be
true copy

F. S. Dass

Annexure - 6

(XXXX (TRUE COPY))

Immediate
Registered

19

No.I/45027/2/78-IPS
Government of India,
Ministry of Home Affairs.

New Delhi, the 12 Mar. 1985.

To:

The Commissioner and Secretary,
Government of Assam,
Home (A) Dep'tt.
Dispur.

Subject:- Grant of extra-ordinary leave to Shri D.K.Das,IPS, for completion of Ph.D.in Criminology in U.S.A.

* * * * *

Sir,

I am directed to refer to the State Government's letter No.HMA(IPS)33/209, dated the 25th August, 1984, on the subject noted above and to say that the request of Shri D.K.Das, IPS, for extension of Extra-ordinary leave for one year with effect from 1.7.1984 was considered in this Ministry, carefully in consultation with the IOP&AR, but it is regretted that it has not been found possible to accede the same, Shri Das may be informed accordingly.

Yours faithfully,

Sd/-C.L.Bashal,
Under Secretary to the Government of India,

certified to be
true
F. W. Greenberg

(copy)

A/F

To

The Chief Secretary to the Government of Assam,
Guwahati.Through Director General of Police, Assam, Guwahati
Date Oct/ 21, 1985.

Sub :- Premature Retirement.

Sir,

This is to state that I joined the Indian Police
Service in 1965.

I have served the police in various capacities with brilliant records and achievements. In 1978, I lost my wife in a serious car accident. The accident left me badly impaired physically and mentally. We were in a police car driven by a police driver. I was too shattered to file any claim for damage from any source.

I came on study leave to the United States of America in 1979. As my children are still young, and I do not feel capable of discharging my responsibilities, probably because of the traumatic accident, I have decided to retire from the service. However, I would like to serve the Indian Police through research and publication.

In view of my faultless record in the last position as an extremely successful Superintendent of Police and the personal tragedy, I may be allowed to get premature pension benefits.

Thank you.

Sincerely,

Sd/- Dilip K. Das, Ph.D.
Member, Indian Police Service.*estimated to be
true 1979.**f. N. Mohan*

Annexure-8.

A-8

(21)

OFFICE OF THE DIRECTOR GENERAL OF POLICE::::ASSAM:GUWAHATI::::

Letter No.FA/XXII-781/258 Dt. Guwahati, the 10.11. Nov/85

Sp

From :- Shri D.N.Dutta, I.P.S.,
Deputy Inspector General of Police,(A),
Assam, Guwahati.

To :- The Commissioner & Secy. to the Govt. of Assam,
Home Deptt.,
Dispur, Guwahati-6.

Subject :- Retiring Pension of Shri Dilip Kr. Das, I.P.S.
(RR-1965).

Sir,

In forwarding herewith an application dt. 21.10.85 (in original) received from Shri D.K.Das, I.P.S. which speaks itself; I am directed to say that Shri Das was appointed to Indian Police Service w.e.f. 5.7.65. His date of birth is 1.2.41. He proceeded on study leave to U.S.A. w.e.f. 20.8.79 as granted vide Govt. Notification No.HMP.119/78 dt. 20.8.79. This refers to state Govt. letter No.HMP.119/78/PT/61 dt. 5.4.70. He has not resumed his duties.

The officer wants to go on retirement with immediate effect and prays for premature pension benefits.

Govt. orders in this regard may kindly be communicated at an early date.

Yours faithfully,

Deputy Inspector General of Police,(A),
Assam, Guwahati

certified to be
true copy

P.N. Dharman

Annexure - 9

(22)

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA(IPS) 33/257

Dated Dispur, the 30th May/89

6X

From :

Shri D.N. Saikia,
Deputy Secy. to the Govt. of Assam.

To :

The Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

Sub :

Voluntary retirement of
Shri Dilip Kumar Das, IPS(RR-65)

Sir,

I am directed to invite a reference to the correspondence resting with this State Government letter No. HMA(IPS) 33/240 dated 9.7.87 and Ministry's letter No. 45027/2/78 IPS dated 1.11.88 and to say that this State Government feels that the case of Shri DK Das IPS may be considered sympathetically in view of the fact that Shri Das lost his wife in a serious car accident which left him badly impaired physically and mentally resulting in his ultimate decision to go on voluntary retirement. The earlier letter in this connection explained the background and a copy of the same is enclosed. The State Government considering all the aspects had agreed to waive the recovery of the amount for study and also had agreed to grant extra ordinary leave for 369 days to enable him to get pensionary benefit. It is requested that the case may be reviewed against this background and as the officer has already gone on voluntary retirement after creditable years of service, Government may show the small concession deserved by him.

Yours faithfully,

D.N. Saikia
(D.N. Saikia)

Deputy Secretary to the Govt. of Assam
Home Department

Copy to the Private Secretary to the Spl. Commissioner,

entitled to be
true copy.

P. N. Deodhar

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

HO.HMA(IPS) 33/264,

From :

Shri M.P. Basbarush, IAS,
Spl. Commissioner & Spl. Secretary to the Govt.
of Assam, Home Department.

To

The Joint Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

Sub :

Voluntary retirement of Shri D.K. Das, IPS (A&M-65).

Ref : Ministry's letter No. 45027/1178-IPS.II dated 7-6-89.
Sir,

With reference to the above I am directed to forward herewith a representation submitted by Shri D.K. Das, IPS (A&M-65) regarding voluntary retirement of Shri D.K. Das, IPS (A&M-65). In this connection our letter No. HMA(IPS) 33/262 dated 1-8-89 to D.O.P. is enclosed. Shri Das has however intimated that he has not received intimation as yet:

It may be stated here that the State Govt. had recommended the prayer of Shri D.K. Das, IPS (A&M-65) for getting the pensionary benefits in view of about 20 years of meritorious services as IPS. It was considered that the prayer cannot be rejected, on overall consideration of all aspects only because extra-ordinary leave cannot be granted more than three years under the existing rules. Shri Das's case has been considered on the compassionate grounds pleaded by him.

Ministry may therefore consider the latest representation to grant 369 days extra-ordinary leave to Shri D.K. Das, IPS (A&M-65) as a special case on compassionate ground so as to enable Shri Das to get pensionary benefit. As regard the recoveries, State Govt. views have already been communicated to the Ministry vide this State Govt. letter No. HMA(IPS) 33/257 dated 30-5-90. In the meantime however we are informing Shri Das of Ministry's earlier decision.

Yours faithfully,

SD

Spl. Commissioner & Spl. Secretary to the
Govt. of Assam, Home Department.

contd....2/

estimated to be
true copy

J. N. Basbarush

(24)

Reasne. IMA (IPG) 33/1990
Copyto :-

Dated Dispur, the 19th June, 1990

1. To Deputy Secretary to the Govt. of Meghalaya, Home (P) Department, Shillong with a request to furnish their views to the Govt. of India, Ministry of Home Affairs, directly in this issue.
2. S/o D.R. Aas, IPG.

By order etc.,

Under Secretary to the Govt. of Assam,
Home (A) Department.

19/6

....

certified to be
true copy

from

P. N. Bhowmik

Dilip

Ktr. 220, 105 (Rtd)

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT
FFFFORDERS BY THE GOVERNORNOTIFICATION

Dated Dispur, the 22nd Feb/2000.

No. HMA(IPS) 33/279 : In continuation of this Deptt.

✓ Branch
 DGP
 IGP (OSD)
 IGP (IPS)
 IGP (DI)
 IGP (AF)
 DIG (I)
 DIG (IPC)
 AIG (Op.)
 AIG (R)
 Registrar
 F A O
 CFRO
 CLWO

Notification No. HMA. 1042/72/163, dtd.
 26/2/82, Shri D.K. Das, IPS is granted
 Extra-ordinary leave for a period of
 369, (three hundred sixty nine), days
 with effect from 1-7-84 to 4-7-85
 under AIS (leave) Rules, 1955 in
 exercise of powers delegated under
 Rule 32 of the AIS (leave) Rules, 1955
 so as to enable the officer to get
 the pensionary benefits.

He would have continued to hold
 a supertime scale of post but for his
 leave.

Sd/- A. Bardoloya,
 Deputy Secy. to the Govt. of Assam,
 Home (A) Department

Memo No. HMA(IPS) 33/279-A, Dated Dispur, the 22nd Feb/2000.

Copy forwarded to :-

- 1) The Accountant General, Assam, Maidamgaon, Beltola,
 Guwahati-29.
- 2) The Under Secy. to the Govt. of India, Ministry
 of Home Affairs, New Delhi.
- 3) Shri D.K. Das, 23 Carolanne Drive, Delmar,
 NY 12054 United States of America.
- 4) The Director General of Police, Assam, Ulubari,
 Guwahati-7 for information.

By Order Etc.,

22.2.2000

Deputy Secy. to the Govt. of Assam,
 Home (A) Department

Taked/

particulars to be
 sent

to me
 J. N. Goswami

FAP/6 UC
 2/2/00

Annexure - 12

(26) ~~2/2~~

From : Dr. Dilip K. Das, IPS
(Assam, 65, Retd)
23, Carolanne Drive
Delmar
New York 12054
USA

To
Shri O.P. Arya, IAS
Joint Secretary (Police)
Ministry of Home Affairs
Government of India,
New Delhi.

Dear Shri Arya :

As explained to you in person, I have been allowed by the Government of Assam to retire voluntarily from IPS on completion of 20 years of service. I enclose a copy of the State Government's orders.

2. I approached the Government of Assam to enquire as to why I have not been granted the pensionary benefits. I was told that the State Government is waiting for your responses to the Memos dated 30th May, 1989 and 19th June, 1990 (The copies are enclosed).

3. As you so very kindly explained to me this afternoon, under the Rule 16(2A) of the AIS DCRB Rules, 1958 the State Government need not wait for the responses to the above quoted Memos. from the MHA. However, if you wish, you may kindly inform the Government of Assam in response to these Memos from them, that they are the competent authority for all action in regard to my voluntary retirement.

Thank you very much.

New Delhi.
9.1.2001

Yours sincerely,

(DILIP K. DAS)

Copy to :

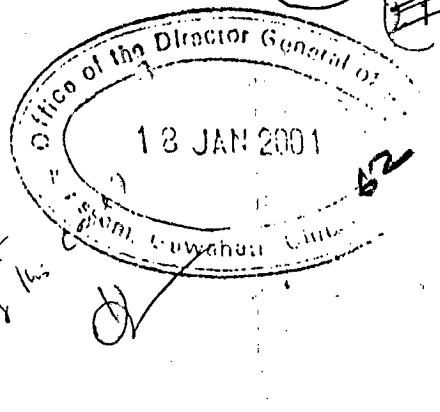
1. Shri P.K. Bora, Chief Secretary, Government of Assam, Assam Secretariat, Dispur, Guwahati, Assam.
2. Shri Hare Krishna Deka, IPS, Director General of Police, Assam, Police Headquarters, Ulubari, Guwahati -7, Assam.

Shri O. P. Arya

*certified to be
true copy.*

8-11. 6-2001

From : Dr. Dilip K.Das, IPS
 (Assam, 65, Retired)
 23, Carolanne Drive,
 Delmor
 New York 12054, USA



Shri P.K.Bora, IAS
 Chief Secretary to the Government of Assam,
 Assam Secretariat, Dispur, Assam.

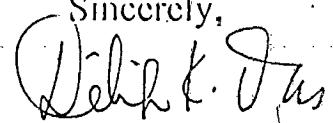
Dear Sri Bora,

Enclosed you will find a copy of a letter I have written to Shri O.P.Arya, IAS, Joint Secretary, Ministry of Home Affairs, New Delhi.

2. As it is indicated in the letter, it is upto the State Government to take the necessary steps to grant me pensionary benefits. This is what I understood from my detailed conversation with Shri Arya. In view of the fact that the Government of Assam has already granted me voluntary retirement (see enclosed), please arrange for me to receive the consequent benefits.

3. In thanking you for your kind attention to the matter, I convey to you the assurance of my warmest regards, and sincerest wishes for a Happy New Year

New Delhi
 10.1.2001

Sincerely,

 (Dilip K.Das)

1. Copy to Shri O.P.Arya, Joint Secretary, Ministry of Home Affairs, New Delhi.

2. Copy to Shri Harekrishna Deka, IPS, Director General of Police, Assam Police Headquarters, Ulbari, Guwahati-7, Assam.

*Thanks
Dilip*

*MD
10/1/01*

*cont'd to be
done today*

P.W. 60000.00/-

REGISTERED WITH A/D

OFFICE OF THE DIRECTOR GENERAL OF POLICE : ASSAM : GUWAHATI :

Letter No. E/II-17,814/IPS/10, Dtd. Guwahati, the 16th March/ 2001.

From :-

Shri A.B. Khandker, IPS
Inspector General of Police, OSD/MPC,
Ulubari, Guwahati-781007,
Assam, India.

To

Dr. D.K. DAS, IPS (Retd.)
23 - CAROLANNE DRIVE,
DELMOR, NEW YORK - 12054,
U.S.A.

Sub. :-

PENSION PAPERS.

Ref. :-

Your application dtd. 10/1/2001.

Sir,

I am directed to forward herewith blank forms in quadruplicate as in Annexure-I in connection with your Pension proposal. The forms may kindly be filled in and signed (in places as tick marked) and returned to me for necessary action.

Yours faithfully,

ABK
(A.B. KHANDKER)
Inspector General of Police, OSD/MPC,
Assam, Guwahati.

Memo No. E/II-17,814/IPS/10-A, Dtd. Guwahati, the 16th March/ 2001.

Copy to :- The Commissioner & Secy. to the Govt. of Assam,
Home & Political Department, Dispur, Guwahati-6.

ABK
(A.B. KHANDKER)
Inspector General of Police, OSD/MPC,
Assam, Guwahati.

exhibited to the
true copy
P.W. Officer

Dt. 29/6/2001

Dilip Kr. Das, IPS (Retd.)

To,

The Commissioner & Secy., to the Govt. of Assam,
Hon. Deptt., Dispur.
Guwahati-6

Sub :- Voluntary pension / DCRG Case in respect of Shri Dilip Kr. Das , IPS (Retd.)

Sir,

In inviting a reference to the above, quoted subject, I am directed to forward herewith the under mentioned documents/ pension papers in respect of Shri Dilip Kr. Das , IPS who has gone on voluntary retirement w.e.f. 4-7-85 his date of birth being 1-2-1941 . The calculation statement could not be prepared due to non availability of last pay slip of the incumbent. In this regard a copy of Memo No. BN/MLP/Accts/26/01/918 dt.15-6-2001 received from the Co. MLP Bn. Meghalaya Shillong is enclosed herewith.

I would therefore, request you to kindly forward the pension case to A.G. Assam, Maidamgaon, Beltola, Guwahati -29 for effecting early settlement of pension / DCRG etc. at an early date.

Documents.

1)	Form No. - 5	2 Copies
2)	Form No. - 6	2 Copies
3)	Form No. - 7	2 Copies
4)	Form No. - 8	2 Copies
5)	Form No. - 12	2 Copies
6)	Description Roll	2 Copies
7)	Specimen Signature	2 Copies
8)	Option / Agreement declaration	2 Copies each.
9)	Details of family members	2 Copies
10)	Form No. 1 (A)	2 Copies
11)	History sheet	2 Copies
12)	Form No. - 13	2 Copies
13)	Joint passport size photographs	2 Copies
14)	Single passport size photographs	2 Copies

Yours faithfully

Inspector General of Police (Admn.)
Assam, Guwahati.

Memo No. E/II-17814/IPS/2001/22 Dt. 29/6/2001.

As directed copy forward for information and necessary action to :-

- (1) Account General, Assam, Pension /Loan and GE -4 Section, Maidamgaon, Beltola, Ghyt - 29.
- (2) The Under Secy. to the Govt. of Assam , Dispur, Guwahati-6.
- (3) The Treasury Officer , Guwahati Treasury, Guwahati-1.
- (4) Shri Dilip Kr Das, IPS (Retd.) 23 Carolanne Drive, Delmar , New York 12054,USA.
- (5) The Supdt. Account Branch / Force(A) Branch , DGP's Office, Assam, Guwahati.

196
Inspector General of Police (Admn.)
Assam, Guwahati.

2003

2/

certified to be

true copy

P. N. Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

8th
Dec

In the matter of :-

CART No.15 of 2003

Shri Dilip Kumar Das .. Applicant

-Versus-

Union of India & Ors.

... Respondents

Written statements for and on behalf of Respondents

No.3.

I, Tarini Nahan Roy, Deputy Accountant General(P&F) Office of the Accountant General(A&E), Assam, Maidamgaon, Beltola Guwahati-781029, do hereby solemnly affirm and say as follows :-

1. That I am the Deputy Accountant General(P&F), Office of the Accountant General, Assam, Maidamgaon, Beltola, Guwahati and as such acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement, the other contentions and statements may be deemed to have been denied and the applicants should be put to strict proof of whatever they claim to the contrary. I am authorised and competent to file this written statement on behalf of all the respondents.
2. That with regard to the statements made in paragraph 1 of the application, the respondents beg to state that the pension papers of the applicant, Shri Dilip Kumar Das, I.P.S.(Retd.) have not been received in this Office till date and as such no action could be taken in authorisation of pensionary benefits to the applicant. The role of this office regarding finalisation as well as authorisation of pensionary benefits in respect of State Govt. Officials starts only on receipt of their pension papers duly forwarded by the respective departmental authority.

The Accountant General
Mr. Moni Bora
through
Anup Kumar Chaudhury 7/5/03

(2)

3. That the respondents have no comments to the statements made in paragraph 2,3, 4.1 to 4.12 and 4.13 to 4.15 of the application.

4. That with regard to the statements made in paragraph 4.16 of the application the answering respondent beg to reiterate the statements made in paragraph 2 of the written statement.

5. That the respondents have no comments to the statements made in paragraph 4.17 to 4.22 and 5.1 to 9 of the application.

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

VERIFICATION

I, Tarini Mohan Roy presently working as Deputy Accountant General(P&F),Office of the Accountant General, Assam Maidamgaon, Beltola, Guwahati-29 being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 3 + 5 of the application are true to my knowledge and belief, those made in paragraphs 2, 4 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 5 th day of May, 2003, at Guwahati.

DEPONENT

(Signature)

उप महालेखकार (प्र. प्र. न.)
Dy. Accountant General (P&F)
महालेखकार का कार्यालय (प्र. प्र. न.)
Off. of the Accountant General (A&G)
असम, गুৱাহাটী
Assam, Guwahati

32
62

In the Central Administrative Tribunal, Guwahati Bench.

O.A. 15/2003

In the matter of :

O.A. No. 15/2003

Shri Dilip Kr. Das ... Applicant

-Vs-

The Union of India & Ors. Respondent

AND

In the matter of :

Written statement on behalf of the
State of Assam, Respondent No. 2
(represented by the Commissioner
& Secretary, Home Department.)

(Written statement on behalf of the respondent No. 2
to the application filed by the applicant)

I, Shri Pramod Panm Baruah

son of

R.L. N. N. Baruah Joint Under Secretary to the Government of Assam, Home Department, Dispur, Guwahati-6, do hereby solemnly state as follows :-

1. That I am the Joint Secretary to the Government of Assam, Home Department. Copy of the aforesaid application has been served upon the respondent No. 2. I Perused the same and understood the contents thereof. I have been authorised to file this written statement before this Hon'ble Tribunal. I do not admit any of the allegations/averments made in the application which are contrary to records. My statement which are not specifically

Contd....P/2.

Filed by :
The State of Assam - Respondent
No. 2
Maitinor Dm. 32, 32, 32
3/7/03 (31-6-03)

admitted hereinafter are to be deemed as denied.

2) That in regard to the statements made in paragraphs 4.1 to 4.5 of the application the answering respondent has nothing to make comment on it as they are being matters of records.

3) That in regard to the statements made in paragraph 4.6 of the application the answering respondent state that it is fact that the extra ordinary leave for one year with effect from 1.7.84 as applied by the applicant was not accepted by the Government of India vide letter dated 12.3.1985.

4) That in regard to the statements made in paragraph 4.7 of the application the answering respondent has nothing to make comments on it.

5) That in regard to the statements made in paragraphs 4.8 to 4.14 of the application the answering respondent begs to state that the applicant applied for premature retirement vide letter dated 21.10.85 but this could not be finalised due to non-regularisation of the period with effect from 1.7.84 to 4.7.85 and for want of Government of India's approval to treat this period as Extra Ordinary Leave and to the voluntary retirement.

The applicant prayed for opting to retire voluntarily with the request to grant extra ordinary leave for a period of 369 (three hundred sixty nine) days so as to enable him to avail the pensionary benefit. This was taken up with Ministry of Home Affairs and requested to grant the extra ordinary leave with effect from 1.7.84 to 4.7.85. Accountant General was also asked to intimate

the actual amount of leave salary to be recovered from the applicant. Thereafter the Government of India was moved for approval to the grant of E.O.L. as well as to waive the recoveries being the leave salary for the study leave period already drawn by the applicant, so as to facilitate the officer to make him eligible for pensionary benefits. But that was regretted by Ministry of Home Affairs as that had not been found possible to accede.

Subsequently, on receipt of another representation from the applicant, Government of India was moved once again for their approval to the proposal which was also regretted.

Further, the applicant again made representation before the Government of Assam in reference to above matter and on receipt of same, the case was examined afresh and with due consultation with the Judicial and Finance Departments the extra ordinary leave for the period of 1.7.84 to 4.7.85 has been granted in relaxation of relevant rule in exercise of powers under Rule 32 of AIS (Leave) Rules 1955.

As regards the voluntary retirement the State Government recommended the prayer of the applicant for voluntary retirement. Since the State Government regularised the aforesaid period of 369 days, Ministry of Home Affairs was also requested to treat the above extra ordinary leave period as qualifying service so as to make the applicant eligible for availing the pensionary benefit. But, the Director, to the Government of India, Ministry of Home Affairs vide letter dated 22.2.2001 under No. 31012/3/2001-IPS.II sought clarification.

from the State Government against letter No. HMA(IPS) 33/257 dated 30.5.89 where by the State Government agreed to waive the recovery amount for study and also had agreed to grant extra ordinary leave for 369 days.

• A clarification into the above letter has already been made to the Director to the Government of India, Ministry of Home Affairs vide W.T. No. HMA(IPS) 33/294 dated 14.5.01 with a request to communicate to State Government about the decision of Government of India regarding voluntary retirement of the applicant. In the meantime a reminder has also been made to Government of India and reply is awaited.

Copies of the letters dated 30.5.89, dated 22.2.01 and W.T. message dated 14.5.01 are annexued herewith and marked as Annexures 'A', 'B' and 'C' respectively.

6. That in regard to the statements made in paragraphs 4.15 and 4.16 of the application, the answering respondent begs to state that the reply from the Government of India in respect of the clarification sought for Government of India is awaited for which decision regarding pension is pending. However, Government of India vide No. 16013/10/2003-IPS-II dated 14.5.03 have intimated that the reference is under examination and may take some time to take a decision and shall be intimated to the State Government. It has been further requested to submit the same in the Hon'ble Court. (Copy of the letter is annexed and marked as 'D').

That in regard to the statements made in paragraphs 4.17 and 4.18 of the application it is stated that the Government of Assam is the law abiding authoritative

administration and always taking care of the people of the State. So far the applicant's case is concerned the State Government all along responded to his grievances and accordingly have taken the necessary steps and action as and when justice demands.

VERIFICATION

I, Shri Pramit Panjan Baruah son of Lt. N. N. Baruah Joint Under Secretary to the Government of Assam, Home Department, Dispur, Guwahati-6, do hereby verify that the statements made in paragraphs 1, 3, 4, 5, 6 and 7 are true to my knowledge, these made in paragraph 2 are being matters of records of the case derived therefrom which I believe to be true and the rests are humble submission before this Hon'ble Tribunal.

I have not suppressed any material facts and I have signed this verification on this 3rd June, 2003.


Signature,

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA(IPS)33/257

Dated Dispur, the 30th May/89

From : Shri D.N. Saikia,
Deputy Secy. to the Govt. of Assam.To : The Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.Sub : Voluntary retirement of
Shri Dilip Kumar Das, IPS(RR-65)

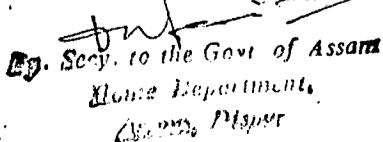
Sir,

I am directed to invite a reference to correspondence resting with this State Government letter No. HMA(IPS)33/240 dated 9.7.87 and Ministry's letter No. 45027/2/78 IPS dated 1.11.88 and to say that this State Government feels that the case of Shri DK Das IPS may be considered sympathetically in view of the fact that Shri Das lost his wife in a serious car accident which left him badly impaired physically and mentally resulting in his ultimate decision to go on voluntary retirement. The earlier letter in this connection explained the background and a copy of the same is enclosed. The State Government considering all the aspects had agreed to waive the recovery of the amount for study and also had agreed to grant extra ordinary leave for 369 days to enable him to get pensionary benefit. It is requested that the case may be reviewed against this background and as the officer has already gone on voluntary retirement after creditable years of service, Government may show the small concession deserved by him.

Yours faithfully,



(D.N. Saikia)

Deputy Secretary to the Govt. of Assam
Home DepartmentCopy to the Private Secretary to the Spl. Commissioner &
Spl. Secretary, Home, Assam, Dispur.


D.N. Saikia
Deputy Secretary to the Govt. of Assam
Home Department
Dispur

7

-38-
Annexure "B"

(28)

510
Pens 12/3

No.31012/3/2001-IPS-II
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 12th February 2001.

To

The Chief Secretary,
Home (A) Department
Government of Assam,
Dispur

(C of the

L.A.

P. Home A
M.A.

Sub: Voluntary retirement of Shri D.K. Das, IPS (AM:65) and releasing of pensionary benefits etc.

Sir,

I am directed to refer to a request of Shri D.K. Das, IPS (AM:65 Retd.) on the subject mentioned above and to forward copies of the orders issued by the State Govt. on the above mentioned subject.

2. From the State Government communication Nos. MHA(IPS)/33/257 dated 30.5.89 and HMA(IPS)33/279 dated 22.2.2000 it appears that the State Govt. has regularised the period E.O.L in excess of 5 years and also allowed the officer to take voluntary retirement. However, as per the provision of AIS leave Rules only Central Govt. is competent to regularise absence in excess of 5 years.

3. As such it is requested that the details of leave regularisation and acceptance for the request for voluntary retirement of Shri Das may please be provided to this Ministry immediately.

RA
13/3/2001
1658
13/3/01

32
13/3/2001

Yours faithfully,
Atanu Purkayastha
(ATANU PURKAYASTHA)
Director to the Govt. of India

22/2/01

W.T. MESSAGE BY I.S.P.W.
DTD. 14.5.2001

TO : DIRECTOR OF POLICE
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
NEW DELHI.
(ATTN. SHRI A. PURKAYASTHA)

FROM : HOMESEC ASSAM DISPUR.

NO. HMA(IPS) 33/294 DATED 14.5.2001 (.) REFERENCE
MINISTRY'S LETTER NO. 31023/3/2001-IPS-II DATED 22.2.2001
SEEKING DETAILS OF LEAVE REGULARISATION AND ACCEPTANCE
OF REQUEST FOR VOLUNTARY RETIREMENT (.) THE NATURE OF
LEAVE GRANTED TO SHRI D.K. DAS IPS FOR THE PERIOD
WITH EFFECT FROM 20.8.79 TO 4.7.85 IS STUDY LEAVE
W.E.F. 20.8.79 TO 19.8.81 (COMMA) E.L. W.E.F. 20.8.81
TO 17.12.81 AND E.O.L. W.E.F. 18.12.81 TO 4.7.85 (.)
TOTAL PERIOD OF E.O.L. DOES NOT EXCEED 5 YEARS (.) THE
E.O.L. FOR THE PERIOD W.E.F. 1.7.84 TO 4.7.85 HAS BEEN
GRANTED IN RELAXATION OF RELEVANT RULE IN EXERCISE OF
RULE 32 OF AIS (LEAVE) RULES, 1955 (.) AS REGARDS THE
VOLUNTARY RETIREMENT STATE GOVT VIDE LETTER NO. HMA(IPS)
33/219 DATED 1.3.86 HAD RECOMMENDED THE PRAYER OF THE
OFFICER FOR VOLUNTARY RETIREMENT (.) MINISTRY'S LETTER
NO. 1/45027/2/78. IPS-II DATED 11.6.86 MAY BE REFERRED
TO THIS CONTEXT (.) GOVT OF INDIA'S DECISION REGARDING
VOLUNTARY RETIREMENT OF THE OFFICER MAY BE COMMUNICATED
EARLY IN VIEW OF STATE GOVT'S NOTIFICATION GRANTING E.O.L.
W.E.F. 1.7.84 TO 4.7.85 (.)

Memo. No. HMA(IPS) 33/294-A, Dtd. Dispur, the 14th May, 2001.
Copy to :-

1. The Officer-in-Charge, ISPW, Dispur for immediate
transmission of the above message.

By order etc.,

14.5.2001
Deputy Secy. to the Govt. of Assam,
Home (A) Department.



Most Immediate

Court Matter

FAX

WPSU
L.I.WTP
10/5
10/5

No. 16013/10/2003-IPS.II
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, Dated the 4 May, 2003

To,

The Joint Secretary,
Govt. of Assam,
Home (A) Department,
Dispur.

Sub: O.A. No. 15/2003 - filed by Shri D.K. Das, IPS (Rtd.) Vs Union of India & ors. in Central Administrative Tribunal, Guwahati Bench, regarding.

Sir,

I am directed to refer to your letter No. 121/03/36, dated 27th March, 2003 addressed to Sr. Govt. Advocate and copy endorsed to this Ministry on the subject mentioned above and to say that after going through our records it is found that this Ministry vide letter dated 22nd February, 2001 requested some clarification from the State Government. The same was still awaited. However, a copy of the State Government WT Message No. HMA (IPS) 33/294-A, dated 14.5.2001 was found with the draft para-wise comments, wherein the decision of Govt. of India regarding voluntary retirement is sought,

2. This reference is being examined in this Ministry at present. It will take some time before a decision is arrived at on the issue and is communicated to the State Government. Therefore submissions of the State Government offered in paras 4.15-4.16 be modified accordingly. Further developments of the case may please be intimated to this Ministry alongwith the outcome of the hearing on 28.2.2003.

Yours faithfully,

R.W.B.

S. P. Verma
14.5.03

(S.P. Verma)
Under Secretary to the Govt. of India
Tel.No. 23092527

R.D. 07
20/5
O/H/S
21/5/03