

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 171/2006

R.A/C.P No.

E.P/M.P. No. 7108 (O.A 171/2006)

1. Orders Sheet..... O.A Pg. 1 to 5
EP 7108 order Pg. 1 to 9 (A 171/2006) (for notes)
2. Judgment/Order dtd 04.05.2007 Pg. 1 to 7 A 10
3. Judgment & Order dtd Received from H.C/Supreme Court
171/2006 Pg. 1 to 2.5
4. O.A. 171/2006 Pg. 1 to 2.5
5. E.P/M.P. EP 7108 Pg. 1 to 1.9
6. R.A/C.P. Pg. to
✓ 7. W.S. Pg. 1 to 6
✓ W/S 2nd time Pg. 1 to 12
✓ Rejoinder Pg. 1 to 4
✓ Rejoinder 2nd time Pg. 1 to 7
✓ 9. Reply Pg. 1 to 12
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply
2

SECTION OFFICER (Judl.)

Habli
25/01/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:ORDERS SHEET

1. Original Application No. 171/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Sri A. LahkarRespondent(s) U.O.I & ONSAdvocate for the Applicant(s) Mr. S. Nath.....Advocate for the Respondent(s) C.G.S.C......

Notes of the Registry	Date	Order of the Tribunal
This application is for the filing of application for compassionate appointment. The application is filed C.R. for Rs. 10/- deposited vide IP. No. 3216278	07.07.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.
Dated.....22.5.06.....		The claim of the applicant is for compassionate appointment. The case is that the applicant's father, who was missing since 05.01.1993 at the time when the applicant was minor. The mother of the applicant, i.e. the wife of the deceased, was engaged by the department, who is still continuing. The applicant submitted representation on 19.08.2005 (annexure - 6) and reminder on 03.05.2006. The applicant in fact had appeared before the respondents in response to notice received by him on 11.10.2002 for compassionate appointment. But nothing is forthcoming.
<i>Glenn</i> Dy. Registrar No steps 6/6 6.7.06		Heard Mr. S. Nath, learned counsel for the applicant and Ms. U. Das, learned Addl. C.G.S.C. for the respondents.
		Contd/-

Contd/-

07.07.2006

Ms. U. Das, learned Addl. C.G.S.C. for the respondents submitted that from annexure - 7 it is very clear that his claim will be answered to.

Pl. comply and
do it by 7-7-06.

But nothing has been answered so far. In the circumstances, four weeks time is granted to take instructions.

Post on 09.08.2006.

Received
Abha Das
Addl. C.G.S.C.
13/7/06

/mb/

09.08.2006

Learned counsel for the respondents wanted four weeks time to file reply statement. Let it be done.

Post on 11.09.2006.

Vice-Chairman

No. Wts have been
filed.

Member

Vice-Chairman

23
11.9.06

mb/

11.9.06

The learned counsel for the respondents wanted to file written statement. Four weeks time is granted to file written statement. Post the matter on 23.10.06.

Vice-Chairman

18-10-06
Steps not taken so far. ^{1m}
No notice issued for 23.10.2006

Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

27-10-06

Wts submitted
by the respondents.

/mb/

Vice-Chairman

Learned Counsel for the Respondents wanted two days time to file reply statement. Post on 03.10.2006.

30.10.06 The issue involved in this case is that for compassionate appointment. The respondents have filed their written statement. In the written statement it is stated that Smti Renukala Lahkar, wife of the missing Sepoy Shri Gekul Chandra Lahkar engaged on purely temporary and on contract basis. Now her son Shri Amarjyoti Lahkar seeking ~~supp~~ appointment on compassionate ground. Considering the facts and circumstances the matter can be admitted.

Writ filed by the respondents.

M
1.12.06.

Application is admitted. Issue notice on the respondents. Post the matter on 4.12.06.

Vice-Chairman

lm

Rejoinder has been filed.

4.12.06

Learned counsel for the applicant wanted to file rejoinder. Prayer allowed. Post on 19.12.06 for order.

M
18.12.06.

22.12.06

pg

19.12.2006

Learned counsel for the applicant

submitted that he had filed rejoinder. Let it be brought on record, it is otherwise in order. Counsel for the parties submitted that pleadings are complete. Hence let the case be posted for hearing on 22.1.2007.

Vice-Chairman

RTI

The case is ready for hearing.

M
19.1.07.

bb

22.1.2007

Ms. U. Das, learned Addl. C.G.S.C. submit

that Applicant in the rejoinder stated that one S. Bithi Dutta has been appointed on compassionate ground on 3.1.2006 in the post of LDC in supercession of claim and hence she wanted to verify the same and to instruction. Let it be done. Post on 12.2.2007.

Vice-Chairman

DR

Vice-Chairman

OA. 17/06

22.1.2007

Ms. J. Das, learned Addl.C.G.S.C.

submitted that Applicant in the rejoinder stated that one Smti Bithi Dutta has been appointed on compassionate ground on 3.1.2006 in the post of LDC in supercession of his claim and hence she wanted to verify the same and take instruction. Let it be done. Post on 12.2.2007.

*The case is ready
for hearing.*

22.
9.2.07

/bb/

Vice-Chairman

12.2.2007

Let the case be listed on 14.02.2007.

In the meantime Ms. U. Das, learned Addl. C.G.S.C. shall file additional affidavit, as requested.

13. 2. 07
*Reply to the rejoinder
submitted in Respondent.
page No. 1 to 12.*

/bb/

Vice-Chairman

14.2.07.

Counsel for the applicant prays for adjournment to take instructions on appointment of another person who has been superseded the applicant. Let it be done. Post the matter on 5.3.07.

*The case is ready
for hearing.*

22
23.07

Vice-Chairman

lm

5.3.07 Heard counsel for the parties-
Hearing concluded. Judgment reserved.

Vice-Chairman

3/10/07 17/06

B. *Copy's*
Record
of Respondent
by Order
of 8/5/07

4.5.07. Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.

Vice-Chairman

8.5.07
C. Copy has been
collected by the L/Adv.
for the applicant.

dk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Original Application No.171 of 2006

DATE OF DECISION: 04.05.2007

Shri Amarjyoti Lahkar

Applicant(s)

Mr S. Nath

Advocate(s) for the
applicant(s)

- Versus -

Union of India & Ors.

Respondents

Ms U. Das, Addl. C.G.S.C.

Advocate(s) for the
Respondent(s)

CORAM:

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE CHAIRMAN

1. Whether reporters of local newspapers
may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest
Being compiled at Jodhpur Bench? Yes/No
4. Whether their Lordships wish to see the fair copy
of the Judgment? Yes/No

Vice-Chairman

8

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.171 of 2006

Date of Order: This the 04th day of May 2007

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

Shri Amarjyoti Lahkar,
S/o Gokul Chandra Lahkar,
Vill. & P.O.- Sangkuchi,
Distt.- Nalbari, Assam.

.....Applicant

By Advocate Shri S. Nath

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Revenue Department, Ministry of Finance, New Delhi - 110001.
2. The Chief Commissioner Central Excise, Morello Compound, Shillong - 793001.
3. The Commissioner Customs & Central Excise, Morello Compound, Shillong - 793001.
4. The Joint Commissioner (P&V) Central Excise, Morello Compound, Shillong - 793001.
5. The Assistant Commissioner Central Excise, Guwahati, Sethi Trust Building, Bhangagarh, Guwahati - 781005.Respondents

By Advocate Ms U. Das, Addl. C.G.S.C.

.....



ORDERK.V. SACHIDANANDAN (VICE-CHAIRMAN)

The father of the applicant Shri Gokul Chandra Lahkar who was working in the Central Excise and Customs with effect from 1980 has been missing since 05.01.1993. An FIR was lodged on 21.01.1993 at the Basistha Chariali Police Station, Guwahati (Annexure-1). The missing person has served the Department for more than twenty years. The missing has his wife, one son, one daughter and his younger brother and they are all dependent on him. The son is the applicant in this O.A. The wife was given a temporary appointment on 12.01.1994 as the applicant was only eight years of age at the time when the employee went missing. The mother of the applicant made representation on 26.07.2002 requesting for appointment of her son (applicant) on compassionate ground when the applicant appeared at the Higher Secondary Examination. The applicant was called for interview in October 2002 for physical test etc. Thereafter there was no communication. The mother of the applicant made a representation on 19.08.2005 before the Chief Commissioner, Customs and Central Excise, Shillong stating that it is not possible for her to maintain her family with a meager income as a casual labourer (Farash). The applicant passed the Higher Secondary Examination in the year 2003 and now reading in B.A. Part III under the Gauhati University and has the required qualification for appointment as Sepoy/LDC on compassionate ground.

2. As per Department of Personnel and Training (DOPT) guidelines dated 29.07.1998 cases of the missing Government

servants are also covered under the Scheme for compassionate appointment. The respondents did not regularize the service of the mother of the applicant nor had given any appointment to the applicant. The applicant could not make an application in the year 1994 since the applicant was only a minor at that time. Aggrieved by the said action of the respondents the applicant has filed the present O. A. seeking the following reliefs:

"8.1 That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of Sepoy/LDC on compassionate ground with immediate effect."

3. The respondents have filed a detailed written statement contending that when the employee went missing in 1993 the applicant was only eight years of age. In 1994 the mother of the applicant was given appointment on purely temporary basis for three months which is being extended from time to time. Compassionate appointment can be considered only after a lapse of at least two years from the date on which the Government servant went missing. The applicant was called for the interview for compassionate appointment held on 28.10.2002 and 29.10.2002. In the interview, seventeen candidates for Group 'D' category, sixteen for LDC category and five for UDC category appeared and the vacancy position for compassionate appointment at the time of interview was two for the post of Sepoy (Group 'D'), one for the post of LDC and four for the post of UDC. The Selection Committee recommended two names for appointment under the Group 'D' category. The applicant was at serial No.10 in the Select List and it was decided that the candidates who had already appeared before the Selection Committee may be

exempted from future personal interview. Only two persons senior to the applicant were given appointment as Sepoy and now the applicant is at serial No.6 in the waiting list for compassionate appointment. The applicant will be considered for compassionate appointment in due time as per policy/rules. Therefore, the present application is devoid of any merit and the same is liable to be dismissed.

4. The applicant has filed a rejoinder reiterating the contentions in the O.A. and further contended that one Smt Bithi Dutta has been appointed on compassionate ground on 03.11.2006 to the post of LDC although Smt Bithi Dutta applied for appointment on compassionate ground much later than the applicant. As such the respondents could have appointed the applicant on compassionate ground prior to Smt Bithi Dutta.

5. The respondents have filed a reply to the rejoinder of the applicant further reiterating that the case of the applicant will be considered in due course. The applicant is not entitled to the post of Tax Assistant as the applicant has completed his graduation. There is no vacancy for appointment on compassionate ground to the post of Sepoy.

6. I have heard Mr S. Nath, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned counsel for the parties have taken me to the various pleadings, evidence and materials placed on record. The learned counsel for the applicant argued that the applicant could have been given compassionate appointment, but the applicant's junior who has applied for the said appointment has already been considered and given appointment. There are also existing vacancies in which the



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applicant's case could very well be considered. The learned counsel for the respondents, on the other hand, argued that a Screening Committee has considered seventeen persons in all and the applicant's merit comes as 10th. The committee has evaluated various aspects of different candidates such penury/financial position of the candidates, the dependency factor, income factor etc. and has come to a reasonable consideration that the applicant who is at serial No.10 cannot be considered for the time being.

7. I have given due consideration to the arguments and materials placed on record. The learned counsel for the parties have submitted that dependents of missing employees will come under the purview of the Scheme in granting compassionate appointment considering the various recommendations of the Fifth Central Pay Commission Report as well as the Study Reports of 1990 and 1994 prepared by the Department of Administrative Reforms and Public Grievances on the subject. The Ministry of Personnel, Public Grievances and Pension has formulated a Scheme on 09.10.1998, the relevant portion of which is reproduced below:

"The object of the Scheme is to grant appointment on Compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

.....
.....

MISSING GOVERNMENT SERVANT

Cases of missing Government servants are also covered under the Scheme for compassionate appointment subject to the following conditions:

- A request to grant the benefit of compassionate appointment can be considered only after a lapse of at

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least 2-years from the date from which the Government servant has been missing provided that:

- i) as FIR to this effect has been lodged with the police,
- ii) the missing person is not traceable and
- iii) the competent authority feels that the case is genuine.

b) This benefit will not be applicable to the case of a Government servant:-

- i) Who had less than two years to retire on the date from which he has been missing; or
- ii) Who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.

c) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the Scheme.

(d) While considering such a request, the results of the Police investigation should also be taken into account, and

(e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned."

8. It is made clear under the Scheme that dependents of a missing Government servant is also entitled to apply for the said post after a lapse of two years from the date on which the employee went missing. The applicant has no case that the procedure that has been laid down in such case has not been complied in this case. The only contention of the respondents is that the committee, which has been formulated for assessment of the merit in such selection, has recommended the applicant at serial No.10 out of the seventeen candidates who have been evaluated and since there is no vacancy the applicant's chance will come in its turn.

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9. Since appointment on compassionate ground could only be against 5% of the vacancies arising and that percentage having already been exhausted, the position is that the applicant can only be considered as and when vacancy arises. It is profitable to note the following decision of the Hon'ble Supreme Court: Life Insurance Corporation of India Vs. Asha Ramchhandra Ambekar (Mrs) & Anr., (1994) 2 SCC 716, where it was held that Courts cannot direct appointments on compassionate grounds dehors the provisions of the Scheme in force governed by rules/guidelines/instructions. If in a given case, the Department of the Government concerned declines, as a matter of policy, not to deviate from the mandate of the provisions underlying the Scheme and refuses to relax the stipulation in respect of ceiling fixed therein, the Courts cannot compel the authorities to exercise its jurisdiction in a particular way and that too by relaxing the essential conditions, when no grievance of violation of substantial rights of parties could be held to have been proved otherwise.

10. In the circumstances, I am of the view that since the respondents have given an assurance that the applicant's case will be considered as and when vacancy arises, the applicant will have to wait till such time. The respondents are accordingly directed to consider the case of the applicant as and when vacancy arises and communicate the same to the applicant without fail.

11. With the above observations the O.A. is disposed of. In the circumstances there will be no order as to costs.

(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

- 6 JUL 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 171 /2006

Shri Amarjyoti Lahkar
-Vs-
Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

05.01.1993- Father of the applicant Shri Gokul Chandra Lahkar while working as Sepoy at the office of the Superintendent of Central Excise and Customs, P.B.C-II Range, Guwahati he is missing since 05.01.1993. At the time of missing he served in the department for more than 12 years.

20.01.93/21.01.1993- Father of missing employee Shri Gokul Chandra Lahkar, lodged an F.I.R on 21.01.1993 to the Basista Police station. Inspector of Central Excise also lodged another FIR to the Chandmari Police Station on 20.01.93. Superintendent of Central Excise informed to the Asstt. Collector, Central Excise, Guwahati, missing of Shri Gokul Chandra Lahakar vide his letter dated 28.01.93. (Annexure- 1 Series)

12.01.1994- Assistant Collector, Central Excise, Guwahati vide his order dated 12.01.1994 engaged Smti. Renubala Lahkar, wife of the missing Govt. employee on purely temporary and on contract basis for a period of 3 months w.e.f. 05.01.94 for cleaning and misc. work @ Rs. 27.60 per day and she is continuing as such till date. (Annexure- 2)

25.03.1994/11.08.98- Smti. Renubala Lahkar, mother of the applicant submitted representations addressed to the Collector, Customs and Central Excise, Shillong on 25.03.1994 and 11.08.98 praying for her appointment to the post of Sepoy on compassionate ground but to no result. (Annexure- 3 Series)

26.07.2002- Smti Renubala Lahkar, mother of the applicant submitted another representation on 26.07.02 addressed to the Commissioner, Central Excise, Shillong, wherein she stated that the trauma following the episode of disappearance of her husband coupled with her failing health do not permit her to carry on with her assignment as Farash on daily wage basis in the department. Therefore, she prayed for

13 years

8 years

Sri Amar Jyoti Lahkar

- 6 JUL 2006

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

appointment of her son Shri Amarjyoti Lahkar (applicant of this O.A) to the post of Sepoy/LDC on compassionate ground, who appeared his Higher Secondary Examination.

(Annexure- 4 Series)

11.10.2002- Office of the Commissioner of Central Excise, Shillong, vide letter dated 11.10.2002 issued one call letter in the name of his mother as well as in the name of applicant for appointment on compassionate ground and requested to appear for physical test at Hqrs. Office, Shillong on 28th October, 2002 and a personal interview on 29th October 2002 before the Interview Board. Be it stated that the applicant in response to the call letter dated 11.10.02 appeared interview and fared well but the respondents made no communication thereafter, regarding the appointment of the applicant to the post of Sepoy/LDC on compassionate ground.

(Annexure- 5)

19.08.2005- Smti. Renubala Lahkar, mother of the applicant submitted one more representation on 19.08.2005 addressed to the Chief Commissioner, Customs & Central Excise, Shillong, praying for appointment of her son Shri Amarjyoti Lahkar to the post of Sepoy/LDC on compassionate ground. The Deputy Commissioner, Central Excise Division, Guwahati, vide his dated 03.05.2006 forwarded the representation dated 19.08.2005 submitted by the mother of the applicant to the Respondent No. 5 but to no result.

(Annexure- 6, 7)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of Sepoy/LDC on compassionate ground with immediate effect.
2. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

Sri Amar Jyoti Lah

Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A.No. 171 /2006

Shri Amarjyoti Lahkar. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-10
2.	---	Verification	-11-
3.	1 (Series)	Copy of the F.I.R dated 21.09.93 (translated copy), 20.01.93 and letter dated 28.01.93.	<u>12-15</u>
4.	2	Copy of the order dated 12.01.94.	-16 -
5.	3 (Series)	Copy of the representation dated 25.03.94 and 11.08.98.	<u>17-18</u>
6.	4	Copy of the representation dated 26.07.02.	-19 -
7.	5	Copy of the call letter dated 11.10.02.	-20 -
8.	6	Copy of the representation dated 19.08.05.	-21 -
9.	7	Copy of forwarding letter dated 03.05.06.	-22 -
10.	8 (Series)	Copy of the HS certificate, marksheets etc.	<u>23-28</u>

Filed By:

S. NAL

Advocate

Date:- 16.07.2006.

Sri Amar Jyoti Lahkar

42

देशी अधिकारण
 Central Administrative Tribunal
 - 6 JUL 2006
 गुवाहाटी न्यायपाठ
 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 171 /2006

BETWEEN:

Shri Amarjyoti Lahkar,
 S/o- Gokul Chandra Lahkar,
 Vill & P.O- Sangkuchi,
 Dist- Nalbari,
 Assam.

.....Applicant.

-AND-

1. The Union of India
 Represented by the Secretary to the
 Government of India,
 Revenue Department,
 Ministry of Finance,
 New Delhi - 110001.
2. The Chief Commissioner
 Central Excise,
 Morello Compound
 Shillong - 793001.
3. The Commissioner
 Customs & Central Excise,
 Morello Compound
 Shillong - 793001.
4. The Joint Commissioner (P&V),
 Central Excise,
 Morello Compound,
 Shillong- 793001.
5. The Assistant Commissioner,
 Central Excise, Guwahati,
 Sethi Trust Building,
 Bhangaghar,
 Guwahati- 781005.

.....Respondents.

Filed by the applicant
 Subroto Nah
 Chakraborty
 06.07.2006

Sri Amar Jyoti Lahkar

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made not against any particular order but praying for a direction upon the respondents for appointment of the applicant on compassionate ground with immediate effect in the post of Sepoy/LDC on the ground that father of the applicant is missing w.e.f. 05.01.1993, while in service.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the father of the applicant Shri Gokul Chandra Lahkar was appointed as Sepoy in the department of Central Excise and Customs in the year 1980. While working as Sepoy at the office of the Superintendent of Central Excise and Customs, P.B.C-II Range, Guwahati he is missing since 05.01.1993. Finding no where Shri Gokul Chandra Lahkar, father of the missing employee Shri Chana Ram Lahkar lodged an F.L.R on 21.01.1993 at the Basistha Chariali Police Station, Guwahati and requested the Officer in-charge of the said police station to investigate the matter. In this connection it is relevant to mention here that Shri Biren Saikia, Inspector of Central

Sri Amar Jyoti Lahkar

29

Excise & Customs also lodged an F.I.R in the Chandmari Police Station on 20.01.93 and it was entered in police station General Diary No. 739 dated 22.01.93. In his F.I.R Shri Biren Saikia, Inspector, Central Excise & Customs informed about non-attendance of office by Shri Gokul Chandra Lahkar since 05.01.93. Superintendent of Central Excise & Customs, Shri BR Das vide his letter dated 28.01.93 addressed to the Asstt. Collector, Customs & Central Excise, Cuwahati, informed about the lodging of F.I.R to the Chandmari Police Station about missing of Shri Gokul Chandra Lahkar. Be it stated that at the time of missing Shri Gokul Chandra Lahkar has served in the department of Central Excise & Customs for more than 12 years.

Copy of the F.I.R dated 21.09.93 (translated copy), 20.01.93 and letter dated 28.01.93 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1 (Series).

4.3 That it is stated that at the time of missing of Shri Gokul Chandra Lahkar, he left with his wife, 1 son, 1 daughter and younger brother who were dependent on him. The present applicant is the only son of the missing Govt. employee Shri Gokul Chandra Lahkar, who was about 8 years of age at that point of time and the younger daughter, was about 6 years of age. Therefore, being minor the applicant could not apply for appointment on compassionate ground at that point of time. Be it stated that Assistant Collector, Central Excise, Guwahati vide his order bearing No. C. No. II/39/3/Accts/90/433-35 dated 12.01.1994 engaged Smti. Renubala Lahkar, wife of the missing Govt. employee on purely temporary and on contract basis for a period of 3 months w.e.f. 05.01.94 for cleaning and misc. work @ Rs. 27.60 per day. Thereafter, her appointment as Casual Worker (Farash) in the department was extended from time to time and she is still continuing as Casual worker in the office of the Deputy Commissioner, Central Excise, Cuwahati.

Sri Aman Jyoti Lahkar

Copy of the order dated 12.01.94 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4.4 That the wife of missing Govt. employee Smti. Renubala Lahkar submitted a representation addressed to the Collector, Customs and Central Excise, Shillong on 25.03.1994, wherein she stated that her husband is missing since 05.01.93 and his whereabouts is not known and the matter has already brought to the kind notice of the department. In her representation dated 25.03.94 she also stated that since the date of missing of her husband she is facing hardship along with two minor children, therefore, she prayed for her employment on compassionate ground to the post of Sepoy but to no result. Be it stated that finding no response from the respondents mother of the applicant submitted another representation on 11.08.98 praying for her appointment to the post of Sepoy on compassionate ground but this time also no result.

Copy of the representation dated 25.03.94 and 11.08.98 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3 (Series).

4.5 That your applicant begs to state that his mother finding no response to her prayer for appointment to the post of Sepoy on compassionate ground submitted another representation on 26.07.02 addressed to the Commissioner, Central Excise, Shillong. In her representation dated 26.07.02 she stated that she has got one son who has just appeared his Higher Secondary Examination and one school going daughter as well as one unemployed brother of her missing husband as dependents family members and she is facing hardship to maintain her family of 4 members with the meager amount of pension and daily wages she receives as Farash in the department. In her representation dated 26.07.02 she also stated that the trauma following the episode of disappearance of her husband coupled with her failing health do not permit her to carry on with her assignment as Farash in the department. Therefore, she prayed for appointment of her son

Sri Amar Tyagi Lahkar.

Shri Amarjyoti Lahkar (applicant of this O.A) to the post of Sepoy/LDC on compassionate ground, who appeared his Higher Secondary Examination.

Copy of the representation dated 26.07.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

4.6 That your applicant begs to state that office of the Commissioner of Central Excise, Shillong, vide letter bearing No. C.No. 11 (39) 1/ET-II/98/37182-92 dated 11.10.2002 issued one call letter in the name of his mother as well as in the name of him. In the said call letter for appointment on compassionate ground it was requested to appear for physical test at Hqrs. Office, Shillong on 28th October, 2002 and a personal interview on 29th October 2002 before the Interview Board along with original certificates and mark sheets, regarding age, educational qualification, caste etc. Be it stated that the applicant in response to the call letter dated 11.10.02 appeared interview and fared well but the respondents made no communication thereafter, regarding the appointment of the applicant to the post of Sepoy/LDC on compassionate ground.

Copy of the call letter dated 11.10.02 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

4.7 That your applicant begs to state that finding no response to his appointment on compassionate ground his mother Smti. Renubala Lahkar submitted one more representation on 19.08.2005 addressed to the Chief Commissioner, Customs & Central Excise, Shillong. In her representation dated 19.08.02 mother of the applicant submitted that her husband Shri Gokul Chandra Lahkar was working as Sepoy in the respondent department and after serving for more than 12 years he has been missing since 05.01.93 while on service. She also stated that she has one son who is studying BA 2nd year (applicant in the O.A) and one daughter who is studying Higher Secondary 2nd year as well as an unemployed brother of her missing husband as dependent family members and it is not possible to

Sri Amar Jyoti Lahkar

maintain a family of 4 members with the meager amount of pension and daily wages she receives as Casual Worker (Farash) in the department. In her representation she further stated that the trauma following the episode of disappearance of her husband coupled with her failing health and it do not permit her to carry on with her assignment as Farash in the department anymore. She also stated in her representation that as per call letter dated 11.10.02 issued by the office of the Commissioner of Central Excise & Customs, Shillong her son Shri Amarjyoti Lahkar appeared for interview on 29.10.02 but no communication has yet been received about the outcome of the interview. Therefore, she prayed for appointment of her son Sri Amarjyoti Lahkar as Sepoy/LDC in the respondent department on compassionate ground and save the family. The Deputy Commissioner, Central Excise Division, Guwahati, vide his letter bearing No. C. No. II (3)1/ET/ACG/92/5301 dated 03.05.2006 forwarded the representation dated 19.08.2005 submitted by the mother of the applicant to the Respondent No. 5 for consideration and the said representation is still pending before the authority for consideration.

Copy of the representation dated 19.08.05 alongwith forwarding letter dated 03.05.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6 and 7 respectively.

4.3 That your applicant begs to state that he has passed Higher Secondary Examination in the year 2003 and he is now reading in B.A Part III under the Gauhati University and as such he has got requisite qualification for appointment as a LDC/Sepoy on compassionate ground in the respondent department. But inspite of repeated approach before the authority by her mother and inspite of duly forwarding by the competent authority his case for compassionate appointment to the post of LDC/Sepoy his case for appointment on compassionate ground has not been considered till date.

Sri Amar Jyoti Lahkar

57

Copy of the HS certificate, marksheets etc. are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8 (Series).

4.9 That it is stated that at time of missing of Shri Gokul Chandra Lahkar, Sepoy, father of the applicant he was about 8 years of age and as such mother of the applicant was appointed by the respondents purely on temporary contractual basis to the post of Casual Worker (Farash) but her service was not regularised after serving for a long 13 years in the department of the Central Excise. Be it stated that as per the guidelines issued by the Dept. of Per & Trg. (DOPT) dated 29.07.1998 cases of the missing Government servants are also covered under the Scheme for compassionate appointment but the respondents did not regularise service of the mother of the applicant and it is very hard for her to maintain the family of 4 dependents members as such mother of the applicant submitted representations from time to time to the department praying for appointment of his son on compassionate ground but to no result.

4.10 That your applicant begs to submit that after missing of his father Shri Gokul Chandra Lahkar, his mother Smti Renubala Lahkar was appointed as casual Farash in the department of Central Excise but due to non-regularisation of her service and due to his fragile health condition she submitted representations for appointment of his son i.e. the present applicant, to the post of Sepoy/LDC as because he has attained majority in the year 2002. In her representation dated 26.07.02 and dated 19.08.05 she has specifically stated that she is now unable to maintain the family of missing Sepoy Shri Gokul Chandra Lahkar with the meager income of casual Farash, moreover her health condition also not permitting her to continue the work of casual Farash. In such a compelling circumstances the mother of the applicant approached before the authorities to appoint the applicant to the post of LDC/Sepoy but the same representations were not considered by the authority to save the family of the missing government

Sri Amar Jyoti Lahkar.

employee from being ruined. Therefore, in action of the respondents are in violation of scheme of appointment on compassionate ground to appoint a family member of the missing govt. employee on regular basis.

4.11 That it is a fit case for the Hon'ble Tribunal to interfere with and protect the rights and interests of the applicant by passing an appropriate order directing the respondents to appoint the applicant on compassionate ground in the post of Sepoy/LDC since the applicant is eligible for appointment to the post of Sepoy/LDC.

4.12 That this application is made bonafide and for the cause of justice.

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

5.1 For that, father of the applicant is missing while in service since 05.01.1993 after serving the department for more than 12 years leaving behind 4 dependent family members.

5.2 For that, the applicant is entitled to be considered for compassionate appointment to support the dependent family members.

5.3 For that, mother of the applicant is continuing to the post of casual Farash on daily wage basis and her service has not been regularised, moreover her health condition does not permit her to continue in the post of casual worker, therefore she submitted representations praying for appointment of the applicant to the post of Sepoy/LDC which are not considered.

5.4 For that, applicant appeared for interview in the year 2002 for appointment to the post of Sepoy on compassionate ground but the respondents did not intimate him regarding his candidature.

5.5 For that, as per rule case of compassionate appointment ought to have been considered on priority basis considering the urgency of the matter

Sri Amar Jyoti Lakhkar

but unfortunately no such consideration has been made in the instant case of the applicant.

5.6 For that, at the time of missing of father of the applicant Shri Gokul Chandra Lahkar the applicant was only about 8 years of age as such he could not apply for appointment on compassionate ground but after attaining majority mother of the applicant applied for appointment of the applicant on compassionate ground.

5.7 For that, applicant appeared for interview on 29th October 2002 before the Interview Board along with original certificates and mark sheets, regarding age, educational qualification, caste etc. but he was not appointed on compassionate ground for the reasons best known by the respondents.

6. **Details of remedies exhausted.**

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief (s) sought for:**

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on

Sri Amar Jyoti Lahkar

40

perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of Sepoy/LDC on compassionate ground with immediate effect.
- 8.2 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

i)	I.P.O No.	:	266324278
ii)	Date of issue	:	22.05.2006.
iii)	Issued from	:	G.P.O, Bawalihat
iv)	Payable at	:	G.P.O, Bawalihat.

12. List of enclosures:

As given in the index.

Sri Amar Jyoti Lakhari

VERIFICATION

I, Shri Amarjyoti Lahkar, S/o- Gokul Chandra Lahkar, aged about 22 years, Vill & P.O- Sankuchi, Dist- Nalbari, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 05th day of July, 2006.

Sri Amar Jyoti Lahkar

Customs & Central Excise : PBC Range II, Gau

C.W.O. GL 1/(1) / ET / PBC II / Ann/92/56 84

To : The Asst. Collector,

Customs & Central Excise,

Sir Subj: Lodging of FIR / corr regarding.

Please refer to this office enclt. Z.N.C.

AG dt 20.1.93 on the above subject.

In this connection, I have to inform that the FIR has been registered in the Chandmari P.S., Gauhati, under Chandmari P.S. General diary No. 739 dt 22.1.93 and accordingly wireless messages have been sent by the O/C P/S vide Sl. No. CM RT / 61-62/93 dt 23.1.93 to the Officer in charge of all P/S of greater Gauhati and P/S of Ghagrimpar, Nalbari, (jurisdictional P/S of home place of Sri Gokul Ch. Sahkar, Seppi, SLC, PBC Range II, Gau) to take necessary action and to locate the whereabouts of Sri Gokul Ch. Sahkar.

No information has been received by the Officer in charge, Chandmari, P/S till today.

This is for your kind information and necessary action.

Yours faithfully,

Sd/- 28/1/93

(B. R. Das)

Superintendent
Office of Central Excise
PBC II Range, Gauhati

Attested
John D. Bhattacharyya
Superintendent
Customs & Central Excise
PBC II Range, Gauhati

Attested
J. D. Bhattacharyya
Advocate

O/C

Chandmari P.S. G.E.S. No: 739 dt 22.1.93

S/N: CMRI/61-62/93 dt 23.1.93.

To The officer in charge,
Chandmari P/Station.
Chandmari, Guwahati.

Sir,
Sub: lodging of F.I.R.

I have been directed by the Asstt. Collector,
of G.E.S.C.E., Guwahati, Nityog Vi Kash Bhawan
6th floor, Guwahati-5 to lodge F.I.R regarding
the non-attendance of office by Shri Gokul Ch.
Lahkar C.E.C.E. Guwahati, PBC II range, M.R.
Dewan Rd, Chandmari, since 5.1.93.

From the family source also it is
confirmed that Shri Gokul Ch. Lahkar, Sepoy
has not gone to his home and his whereabouts
from 5.1.93 to till date is not known to this
office.

This is for your information and necessary
action please. The official address as well as
home address of Shri Gokul Chandra Lahkar
is given below with a photograph of Sri
Gokul Ch. Lahkar.

Office address of Shri Gokul Ch. Lahkar

① SHRI GOKUL CHANDRA LAHKAR (35 yrs ago.)
The Superintendent, Customs & Excise
Guwahati. PBC Range II
M.R. Dewan Road, Chandmari.

(2) HOME ADDRESS

Gaon - SANE KUCHI.

P.O - Do -

Thana - Ghagrapar,

Dist - NALBARI.

Yours faithfully

Sd/-

20.1.93

(Biren Saikia)

၁၁၇-

ଶାନ୍ତିମାତ୍ର ପରିଚୟ

ବିଶ୍ୱାସ, — ପରିପ୍ରେକ୍ଷଣ କାହାରୁ ଥାବୁ ?

ମାତ୍ରାମାତ୍ରା

Aciesieef.

Dom
129194
Superintendent (Wichita)
Customs & Central Office
Gewichts.

Affectionate
Family Advocate

לְמַלְאָכָה וְמַלְאָכָה מִלְּמַלְאָכָה

July 26 - 26

25/3/11

Annexure- 1 (Series)

(Extract)
(Translated from Assamease)

To.

Officer in charge,
Basista Chariali Police Station,
Guwahati- 28.

Sub:- Regarding missing.

Sir,

With due respect I submit that my son Shri Gokul Chandra Lahkar is a fourth grade employee in the office of the Superintendent of Central Excise situated at Chandmari. From last 05.01.93 Shri Gokul Chandra Lahkar has not returned from his office. On asking about him at his office I came to learn that on 05.01.93 at about 6.30 in the morning he went to Shri Jit Singh, owner of a line hotel at 9th Mile (Guwahati) to collect money. On coming to know that I went to Shri Jit Singh and came to know that Shri Gokul Chandra Lahkar went to him and returned from him. But after searching many places I have not received any information regarding whereabouts of my son. As a result I am in very anxious mood in my house. Moreover, I also anticipating that somebody might have done any unwanted incident to my son. Therefore, I request you to investigate the matter and take necessary action.

Yours faithfully

Sd/-

Shri Chanaram Lahkar.

Maidam Bakra para
Guwahati- 28.
21/1/93.

*Alfesta
Advocate*

-16- *Annexure 2*

CUSTOMS AND CENTRAL EXCISE
GUWAHATI

R D E R

Dated Guwahati
the 12th January, 1993. (n4)

on

Smti. Renubala Lahakar is hereby engaged purely temporary and on contract basis and no work no pay basis for a period of 3 (three) months w.e.f. 5.1.94 for cleaning and misc. work in PBC-I/PBC-II/RBC/Amingaon Range
@ Rs. 27'60 per day.

Either of the party can terminate the contract without assigning any reason. It will not lead to employer and employee relationship.

S.R.
(S.R.BARUAH)
ASSISTANT COLLECTOR

C, No. II/39/3/Accts/90

Dated:- 20/1/94

Copy forwarded for information and necessary action to:-

- 1) The A.P.R.O., Central Excise, Guwahati
- 2) Smti Renubala Lahakar
- 3) The Superintendent, PBC-I/RBC/Amingaon/PBC-II Range, Guwahati

S.R. 20/1/94
(S.R.BARUAH)
ASSISTANT COLLECTOR
CENTRAL EXCISE : GUWAHATI

*Attest
Smti.
Advocate*

To

The Collector
Customs and Central Excise
Shillong

(Through the Asstt. Collector, Central Excise, Ghy.)

Sir,

Subject : Prayer for employment on compassionate ground.

With due respect I beg to submit herewith the following for favour of your perusal and sympathetic consideration.

That Sir, my husband Gukul Ch. Lahakar was working in the Depttl. of Customs and Central Excise as Sepoy and was posted in Guwahati PBC-II Range.

That Sir, from 5.1.93 he is missing and his whereabouts is not known. The matter has already been brought to your kind notice.

That Sir, I am facing great hardship since the date of missing of my husband along with two minor children. That Sir, I shall be highly obliged if you kindly employ me in your office on compassionate ground in the cadre of Sepoy and thus save from starvation and this act of your kindness I shall ever grateful for your kind consideration.

Yours faithfully,

2/1
(Mrs. Renu Bala Lahkar)

Copy to :-

1. The General Secretary, Cr."U" officers Association, Shillong.
2. The Secretary, Cr."D" Officers Association, Guwahati for information.

2/2 Renu Bala Lahkar
(Mrs. Renu Bala Lahkar) 2/3/94

Accepted
J.W. Advocate

Received
2/2/94
2/6/94
Customs & Central Excise
Guwahati

To
The Commissioner of
Central Excise
Shillong.

(Through proper channel)

Sir,

Subject:-Prayer for job of Sepoy- application Regarding

Most humbly and respectfully I beg to lay before you the following few lines for favour of your kind information sympathetic consideration and necessary action.

That Sir, my husband Shri Gokul Ch. Lahakar was working as Sepoy in your department and after serving for more than 12 years he was missing from 5.1.93 while on service. At the time of missing he was serving at the office of the Superintendent of Central Excise, P.B.C-II Range, Guwahati.

Accordingly F.I.R. was lodged by sri Chana Ram Lahakar, father of my husband with Basistha Chariali P.S., Guwahati-28 on 21.1.93 also the department lodged F.I.R. to the Chandmari P.S., Guwahati-3 on 22.1.93 and it was entered in police station General Diary No.739 dt. 22.1.93. My husband is still missing and more than years have since been elapsed without any trace of him.

That Sir, I have one school going son and one school going daughter as well as one unemployed brother of my missing husband as dependent and in the present days of hardship it is not possible to maintain a family of 4 members with meagre amount of pension and daily wages as Farash of your department. I am receiving

That Sir, I have passed Class-IX in the year 1978 (Copy enclosed) and as such I applied to your honour vide application dated 3.6.98 for the post of Sepoy of your department on compassionate ground (copy enclosed) as per O.M.NO.14014/B/97-Estt(D), Govt. of India Ministry of Personnel, Public Grievances and Pension (DOPT), New Delhi dated 31.10.97 (copy enclosed) for favour of your sympathetic consideration.

As such I would again like to request your honour to be kind enough to appoint me as a Sepoy in your department and thereby save me and my family members from starvation for which act of kindness I shall remain ever grateful to your honour.

Yours faithfully,

RENU BALA LAHAKAR 11/8/98

(RENU BALA LAHAKAR)
W/O.GOKUL CH. LAHAKAR,
MISSING SEPOY OF CENTRAL
EXCISE : GUWAHATI.

Secretary
Central Excise
Government of India
Guwahati, Assam
S. No. 148/18

Attested
By
Advocate

To

The Commissioner
Central Excise, Shillong

[Through Proper Channel]

Sir

Subject: Prayer for job of Sepoy/LDC on compassionate ground. Regarding,

Most humbly and respectfully, I beg to lay before you the following few lines for your kind and sympathetic consideration.

That Sir, my husband Shri Gokul Ch. Lahakar was working as Sepoy in your Department and after serving for more than 12 years, he has been missing since 05/01/1993, while on service. At that point of time, he was serving at the office of the Superintendent, PBC-II Range, Guwahati.

That Sir, an E.I.R. was lodged by Shri Chana Ram Lahakar, father of my husband with Basistha Chariali P.S., Guwahati - 28 on 21/01/1993. The Department also lodged an E.I.R. with the Chandmark P.S., Guwahati - 3 on 22/01/1993, which was registered in P.S. General Diary No. 739 dated 22/01/1993. My husband is still missing and more than 9 (nine) years elapsed ever since.

That Sir, I have one son who has just appeared his Higher Secondary examination and one school going daughter as well as one unemployed brother of my missing husband as dependents and in the present days of hardship, it is not possible to maintain a family of 4 (four) members with the meagre amount of pension and daily wages I receive as Parishad in the Department.

That Sir, I applied to your honour vide application dated 03/06/1998 for the post of Sepoy in the Department on compassionate ground as per O.M. No. 11014/8/97 Estt (D) of the Govt. of India, Ministry of Personnel, Public Grievances and Pension (DOPPT), New Delhi dated 31/10/1997 followed by a reminder dated 11/08/1998.

That Sir, the trauma following the episode of disappearance of my husband coupled with my failing health do not permit me to carry on with my assignment as Parishad in the Department any more.

That Sir, my son Shri Amarjyoti Lahakar, who has just appeared his Higher Secondary Examination is academically bright having passed his matriculation examination with a 3rd Division against his name. Copies of his HSE C Certificate, Identity Card, Admit Card and Marks Sheet of the said examination are enclosed herewith for your kind perusal.

That Sir, I shall be extremely grateful to your benign self if his name is considered for a post of Sepoy/LDC in the Department on compassionate ground in terms of the Govt. of India, Ministry of Personnel, Public Grievances and Pension (DOPPT), New Delhi dated 31/10/1997 referred to above.

That Sir, your kind action in the matter will save my entire family from economic and physical despair.

That Sir, for this act of kindness, I shall remain ever grateful.

Enclosed: As stated (1 sheet).

26/7/02
Received for
Central Excise
Control Room
Affested
First
Advocate

Name: Bishnu
Ranjan Das, Advocate
(from Bishnu Lahakar)
Date: 26/7/02
Central Excise Control Room



GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

C. No. II(39)1/ET-II/98
37182-92

Dated: 11 OCT 2002

To,

Srif/Ms. Renu Bala Lakhkar and Amarjyoti Lakhkar
Central Excise Division
Guwahati.

Subject: Appointment on Compassionate Ground - regarding.

I am directed to refer to your application dated 24.04.98 on the above subject and to request you to appear for a physical test at Hqrs. Office, Shillong on 28th October, 2002 and a personal interview on 29th October, 2002 before the Interview Board at the Chamber of the Additional Commissioner (P&V), at Morello Compound, Shillong at 11.00 AM alongwith your Original Certificates and Marksheets regarding age, educational qualification, caste, etc.

You may also like to note that if you fail to appear before the Interview Board at the time and place mentioned above, your request for compassionate appointment will not be considered.

M. L. Jyrwa, 11/10/2002
(M. L. JYRWA)
ADMINISTRATIVE OFFICER (ESTT.)
CUSTOMS & CENTRAL EXCISE
SHILLONG.

*After for
private*

Dated Guwahati, the 19th of August, 2005

To,

The Chief Commissioner,
Customs & Central Excise,
Shillong. Through proper channel.

Subject : - Prayer for job of Sepoy/LDC on compassionate ground.

Respected Sir,

Most humbly and respectfully I beg to lay before you the following few lines for your kind and sympathetic consideration.

That Sir, my husband Shri Gokul Ch. Lahakar was working as sepoy in your Department and after serving for more than 12 years he has been missing since 5.1.1993 while on service. At that point of time he was serving at the office of the Superintendent PBC-II Range, Guwahati and more than 12 years elapsed ever since his disappearance.

That Sir, I have one son who is studying BA 2nd year and one daughter who is studying Higher Secondary 2nd year as well as an unemployed brother of my missing husband as dependent and in the present days of hardship it is not possible to maintain a family of 4 (four) members with the meagre amount of pension and daily wages I receive as Casual Worker (Farash) in the Department.

That Sir, the trauma following the episode of disappearance of my husband coupled with my failing health do not permit me to carry on with my assignment as Farash in the department anymore.

That Sir, vide my representation dt. 26.7.02 (copy enclosed) to the Commissioner, Central Excise, Shillong I prayed for appointment of my son Sri Amarjyoti Lahkar as Sepoy/LDC in this department on compassionate ground.

That Sir, as per call letter under C.No. II(39)1/ET-II/98/37182-92 dt. 11.10.02 (Copy enclosed) of your office my son Sri Amarjyoti Lahkar appeared for interview on 29.10.02 at Shillong but Sir no communication has yet been received about the outcome of the interview.

That Sir, in the above circumstances I fervently request you to appoint my son Sri Amarjyoti Lahkar as Sepoy/LDC in this department on compassionate ground and save the family.

That Sir, for this act of kindness I shall remain ever grateful to your honour.

Enclo :

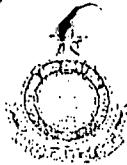
- (i) Representation dt. 26.2.02
- (ii) Call letter dt. 11.10.02
- (iii) H.S.L.C., H.S. Marksheets. (A Part - I marked)

Yours faithfully,

Renu bala Lahkar
(RENUBALA LAHKAR)
Casual Worker in office of the Deputy
Commissioner, Central Excise, Guwahati

AB
23.8.05
Received
Assistant Commissioner
Central Excise, Guwahati

*Affected
Law Advocate*



-22-

Annexure-7

6

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL EXCISE: GUWAHATI
6TH FLOOR, SETHI TRUST BUILDING, NHANGARH, GUWAHATI - 781 005
Tele- (0361) 2529435/2529967 Fax-2452816 E-mail: exc003guwahati@rediffmail.com

C.No.II(3)1/ET/ACG/92/

5301

Dated:- 3.5.06

To,

The Joint Commissioner(P&V),
Central Excise,
Shillong.

Sir,

Subject:- Prayer for Job of Sepoy/L.D.C. on compassionate ground –
Regarding.

I have to forward herewith one representation received from Smti. Renubala Lahakar w/o Shri G.C. Lahakar, Sepoy missing since 05-01-1993 addressed to the Commissioner, Central Excise, Shillong regarding appointment of her son Shri Amarjyoti Lahakar for a post of Sepoy/L.D.C. in the Department on compassionate ground for consideration at your end.

Encl: As above.

Yours faithfully,

B. Dasgupta
(B. Dasgupta)
Deputy Commissioner,
Central Excise Division,
Guwahati.

*Atul
Jais
Advocate*

083399

Secondary Education

High School Leaving Certificate



Examination, 2000

Results announced on: 26.06.2000

This is to certify that Aranyaott Lankar

Roll No. 110-369 No. 0002 has duly passed the High

School Leaving Certificate Examination, 2000, of this Board

and is placed in the Second Division.

His / Her date of birth is May 27, 1994

GUWAHATI
ASSAM

Attest
for
private

N. C. BARDOLO
SECRETARY

2000

69

50

24-

P. B. Dhirdatta Higher Secondary School

P.O: KP-BARKHALA

Dist.— Nalbari, Assam.

80

TRANSFER CERTIFICATE

Certified that Amarjyoti Lahkar son / daughter of Gurkha Lahkar an inhabitant of the village Sambhul in the District of Nalbari left this school

on 31-05-03

His/Her date of birth according to the Admission Register is

He/She was reading in class 2 in 2003 yearand had/had not passed the Annual/Post/ I.C.S.L.C./I.C.S. 1st yr. / I.C.S. 2nd yr. (Sc./Arts./Com.) Examination 2003 for promotion to Class(.....) in 2 Division,All fees and fines due by him/her have been paid up to 31.05.03Character Good

Reasons for leaving

- i) Unavoidable change of residence.
- ii) Completion of School course.
- iii) Private or Minor reasons.

Date 27/03/03Prepared by R. D. DasPrincipal
P. B. D. H. S. SchoolP. B. Dhirdatta H. S. School
N.G. Kp. Barkhala

3/1/06

Yours faithfully

Sd/-

(R. D. Das) 28/1/93

Office Superintendent
District & Political Bureau
P.C.I. Range, Guwahati

Attested
For
12/09/96
Superintendent,
Customs & Central Excise
P.C.I. Range Guwahati

Attested
R. D. Das
Advocate

25
GAUHATE UNIVERSITY

Annexure 8 (Series)

B.A./B.Sc. PART - I (1+1+1) EXAMINATION, 2004

SL. NO. 005400

MARKS SHEET

College: BARBAG COLLEGE

The following are the marks obtained by AMAR JYOTI LAHKAR

Roll Code

A-04028 Roll No. 0002

Registration No. 006967

at the B.A. PART - I (1+1+1) - EXAMINATION - 2004

Subject	Major Subjects		General Subjects												Grand Total	Result	Major Subject	
	Paper I	Paper II	Total	Pract.	Pract.													
ENGLISH	100	100	200	100	100	100	100	100	100	100	100	100	100	100	100	100	300	
PART MARKS	25	25	50	30	30	30	30	30	30	30	30	30	30	30	30	30	108	176
Marks Obtained	35	33	68	38	38	38	37	37	37	37	37	37	37	37	37	37		PASS

Date: AUGUST 26, 2004

After Adv.
Advocate

A. G. Choudhury
M.A., B.Ed., LL.B.

X

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

OA NO. 171/2006

SHRI AMARJYOTI LAHKAR

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS

.... RESPONDENTS

WRITTEN STTAMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through it and have understood the contentions made thereof. Save and except, the statements, which are not specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on record, are also denied and the applicant is put to the strictest proof thereof.
- 2) That before going through the various paragraphs of the OA, the respondents beg to place the Brief History of the case.

Shri Amarjyoti Lahkar is a son of Shri Gokul Chandra Lahkar, Sepoy who was missing since 05.01.1993 while he was on duty at the office of the Superintendent of Central Excise. PBC-II Range, Guwahati.

Shri Gokul Chandra Lahkar was appointed as Sepoy in the Department of Customs and Central Excise in the year 1981.

It is stated that at the time when Shri Gokul Chandra Lahkar, went missing he left his wife, one son, one daughter and younger brother who were dependent on him. The applicant Shri Amarjyoti Lahkar, son of Shri Gokul Chandra Lahkar was about 8 (eight) years of age at that time.

That Asstt. Collector, Central Excise, Guwahati vides order no. C. No. II/39/3/Accts/90/433-35 dated 12.01.1994 engaged Smti Renubala Lahkar wife of the missing Sepoy Shri Gokul Chandra Lahkar, on purely temporary and on contract basis for a period of 3 (three) months w. e. f. 05.01.1994 for cleaning and other misc. work.

Compassionate appointments are considered as per a DoPT's O. M. dated 9.10.1998 (copy enclosed). As per para-11 of the said O. M., a request to grant the benefit of compassionate appointment can be considered only after a lapse of at

42
Filed by
Respondents
through
Advocate
Smti
Lahkar
Date
1/1/2006
H.C.

least 2 years from the date from which the Government servanthas been missing subject to some provisions.

Representation from Smti Renubala Lahkar, wife of the missing Sepoy Gokul Chandra Lahkar addressed to the Commissioner of Central Exercise, Shillong for his appointment to the post of Sepoy on Compassionate ground was received on 24.4.1998 in this Hqrs. Office, Shilling. Later on, she requested to consider her son, Shri Amarjyoti Lahkar for Compassionate appointment in the grade of Sepoy/LDC in place of her. The applicant, Shri Amarjyoti Lahkar was called for interview for compassionate appointments held on 28.10.2002 & 29.10.2002. Accordingly, he appeared. In the interview held on 28th & 29th October, 2002, 17 candidates for Group D category, 16 for LDC category and 5 candidates under UDC category appeared for compassionate appointments and vacancy position for compassionate appointment at the time of interview was two for the post of Sepoy (Group- D), one for the post of LDC and four for the post of UDC. Under Group-D grade, the selection committee recommended two names for appointment. At the time of interview, the applicant was at Serial No. 10 in the List for Compassionate appointments. The selection committee decided that the candidates who had already appeared before the Selection Committee may be exempted for future personal Interview. These candidates may be officered appointments on compassionate grounds, as and when vacancies arise without further Personal Interview.

After the appointments in 2002 on compassionate ground, there was no vacancy to the post of Group D/LDC which could be filled up on compassionate ground.

Now, the applicant Shri Amarjyoti Lahkar, son of Shri Gokul Chandra Lahkar (missing) Sepoy filed the present application before the Hon'ble CAT, Guwahati for his appointment on compassionate ground.

- 3) That with regard to statement made in paragraph 4.1 of the OA, the respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraph 4.2 of the OA, the respondents beg to state that Shri Gakul Chandra Lahakr, father of the applicant Shri Amarjyoti Lahkar joined this department as Sepoy 18.3.1981. He was reported as missing since 05.01.1993. He was posted at the office of the Superintendent of Central Excise, PBC II Range, Guwahati at the time of missing. Representation fron Smt Renubala Lahakr wife of the missing Sepoy

Gokul Ch. Lahkar addressed to the Commissioner of Central Excise, Shillong for her appointment to the post of Sepoy on compassionate ground was received on 24.4.1998 in this office, Sillong. Later on vide representation-dated 26.7.2002, she requested to consider her son, Shri Amarjyoti Lahakr for compassionate appointment in the grade of Sepoy/LDC. In place of her.

- 5) That with regard to the statement made in paragraph 4.3 of the OA, the respondents beg to submit that Smti Renubala Lahkar was engaged as daily wages labour purely on temporary basis and on contract (on work on pay) basis for a period of three months w.e.f. 5.1.1994. However, she is working as contract labour till date on no work no pay basis.
- 6) That with regard to the statement made in paragraph 4.4 of the OA, the respondents beg to state that compassionate appointments are considered as per a DoPT's O. M. dated 9.10.1998. As per para-11 of the said O. M., a request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Government servant has been missing subject to some provisions. Representation from Smt. Renubala Lahkar, wife of missing sepoy Shri Gokul Ch. Lahak addressed to the Commissioner of Central Excise, Shillong for his appointment to the post of Sepoy on Compassionate ground was received on 24.4.1998 in this Hqrs Office, Shillong. Later on, she requested to consider her son, Shri Amarjyoti Lahkar for compassionate appointment in the grade of Sepoy/LDC in place of her. The applicant, Shri Amarjyoti Lahkar was called for interviews held on 28.10.2002 and 29.10.2002. Accordingly, he appeared in the interview held on 28th and 29th October 2002 along with 17 candidates under Group-D category, 16 for LDC category and 5 candidates under UDC category appeared for compassionate appointments and the vacancy position for compassionate appointment at that time of interview was two for the post of Sepoy (Group D), one for the post of LDC and four post of UDC. Under Group D grade, the selection committee recommended two names for appointment. At the time of interview, the applicant was at Sl. No. 10 in the List for compassionate appointments. The Selection Committee decided that the candidates who had already appeared before the Selection Committee may be exempted for future personal interviews. These candidates may be offered appointments, on compassionate grounds, as and when vacancies arise without further personal interview.

A copy of the O. M. dated 9.10.1998 is annexed herewith and marked as Annexure- R 1.

That with regard to the statement, made in paragraph 4.5 of the OA, the respondents beg to offer no comment.

- 8) That with regard to the statement made in paragraph 4.6 of the OA, the respondents beg to submit that the vacancy/ies for the compassionate appointments are very limited. At the time of interview of the applicant on 28 & 29.10.2002, his serial number in the list for the compassionate appointment was 10 and he was eligible for the post of Sepoy at that time. But only two candidates who were senior to him were given appointment for the post of Sepoy (Group D) as per vacancy. Now his serial number is six in the waiting list for compassionate appointment. His name will also be considered in due time as per policy /rules.
- 9) That with regard to the statement made in paragraph 4.7 of the OA, the respondents beg to state that Compassionate appointment are considered as per DoPT's OM dated 9.10.1998. As per para-11 of the said MO, grant the benefit of compassionate appointment can be considered if there is a lapse of at least 2 years from the date from which the Government has been missing subject to some provisions. Representation from Smt. Amarjyoti Lahkar, wife of the missing Sepoy Gokul Ch. Lahkar addressed to the Commissioner of Central Excise, Shillong for his appointment to the post of Sepoy on Compassionate ground was received on 24.4.1998, in this Head Office, Shillong. Later on she requested to consider her son Shri. Lahkar for compassionate appointment in the grade of Sepoy/ LDC. Her application was accepted and she was called for interview. The applicant, Shri Amarjyoti Lahkar was called for interview on 28.10.2002 and 29.10.2002. In the interview, held on 28th and 29th October 2002, 16 candidates under Group- D category, 16 for LDC category and 16 under UDC category appeared for compassionate appointment. There was a vacancy position for compassionate appointment at the time of interview. There were two for the post of Sepoy (Group-D), one for the post of LDC and one for the post of UDC. Under group- D grade, the selection committee selected two names for appointment. At the time of interview, the

No. 10 in the List for Compassionate appointments. The Selection Committee decided that the candidates who had already appeared before the Selection Committee may be exempted for future personal interviews. These candidates may be offered compassionate appointments as and when vacancies arise without future personal interviews. After those vacancy and appointment for the post of Sepoy (Group D) as mentioned above, there has been no vacancy and appointment for the post of Sepoy (Group D) till date. His case will be considered as and when vacancy will arise.

- 10) That with regard to the statement made in paragraph 4.8 of the OA, the respondents beg to state that after the cadre restructuring, compassionate appointments were given only for the post of Sepoy and TA. For the post of TA, required minimum qualification is graduate. Hence he is not entitled to the post of TA as he has not completed his graduation. Moreover, there is no vacancy for the compassionate appointment for the post of Sepoy now. Therefore, his case will be considered in due time.
- 11) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to state that Smt. Renubala Lahkar was engaged as daily wages labour purely on temporary basis and on contract basis (no work no pay basis) for a period of three months w.e.f. 5.1.1994. However, she is working as contract labour till date on no work no pay basis.
- 12) That with regard to the statement made in paragraphs 4.10 of the OA, the respondents beg to reiterate and reaffirm the statements made in paragraph 8 and 9 above.
- 13) That with regard to the statement made in paragraphs 4.11 and 4.12 of the OA, the respondents beg to offer no comment.
- 14) That in view of the above facts and circumstances narrated above there is no valid ground as mentioned in the paragraphs 5.1 to 5.7 and no relief can be granted on the grounds as prayed for in the paragraph 8.1 and 8.2, hence the present application is devoid of merit and deserves to be dismissed.

VERIFICATION

I Shri. Kehozhol Ashi' Khieya aged
about 42 years at present working as

....., who is one of the respondents and taking steps in this case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph

1,10 to 14.

are true

to my knowledge and belief those made in paragraph

2 to 9

being matter of records, are

true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 30th day of October 2006 at Gunahal

DEPONENT

१८/१२/२००६

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

२८

Filed by the applicant-
Gourghi, C. M. K.
Advocate.
19.12.2006

In the matter of:-

O.A. No. 171 of 2006

Shri Amarjyoti Lahkar

-Versus-

Union of India & Ors.

-And-

In the matter of:-

Rejoinder submitted by the
applicant in reply to the written
statements submitted by the
respondents.

The applicant above named most humbly and respectfully begs to state as under:-

1. That with regard to the statements made in paragraph 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the written statement the applicant categorically denies statements save and except those are matters of records and further begs to state that the contention of the respondents that the mother of the applicant submitted her representation praying for compassionate ground on 24.04.1998 is factually incorrect. In this connection applicant begs to state that his mother submitted her representation praying for her appointment on compassionate ground on 25.03.1994, which was received by the respondents on 28.03.1994 (Annexure- 3 Series of the O.A). In her representation mother of the applicant categorically stated that since missing of the her husband she is facing extreme hardship with her two

9

minor son and prayed for appointment on compassionate ground but the respondents appointed her on casual basis in the Group 'D' post and her service is not regularised till date. In this connection it is relevant to mention here that respondents could have appointed mother of the applicant on regular basis on submission of her representation on 25.03.1994, after 2 years of missing of Shri Gokul Chandra Lahkar and during this period many of the persons have been appointed on compassionate ground, but the respondents did not appoint mother of the applicant on regular basis for the reasons best known to the respondents. In this connection it is relevant to mention here that at the time of missing of Shri Gokul Chandra Lahkar, the applicant was minor (only 8 years) as such question of his applying on compassionate ground does not arise.

It is further stated that applicant after attaining 18 years of age he appeared in the interview for compassionate ground on 28.10.02 and 19.10.02 but his case was not considered for appointment on compassionate ground in the post of LDC/Sepoy till date and the respondents are now taking the plea that he will be appointed on compassionate ground as and when vacancies arise. In this connection it is categorically stated that one Smti Bithi Dutta has been appointed on compassionate ground on 03.11.2006 to the post of LDC, although Smti Bithi Dutta applied for appointment on compassionate ground much later than the applicant. As such respondents could have appoint the applicant on compassionate ground prior to Smti Bithi Dutta as because mother of the applicant has been appointed on casual basis till date and no one from the family of the missing Govt. employee Shri Gokul Chandra Lahkar has been appointed on compassionate ground till filing of this application. As such action of the respondents denying appointment of the applicant on compassionate ground is arbitrary, malafide and on this ground alone the Hon'ble Tribunal be pleased to direct the respondents to produce records of the compassionate appointment from the date mother of the applicant

first applied for appointment on compassionate ground i.e. from 25.03.1994 for perusal of the Hon'ble Tribunal.

2. That the applicant categorically denies the statements made in para 14 of the written statement and begs to state that father of the applicant is missing since 05.01.1993 and till date no one has been appointed by the respondents from the family of the missing Govt. employee Shri Gokul Chandra Lahkar. Moreover, in between this long 13 years many of the persons have been appointed in the respondent department on compassionate ground as such the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant on compassionate ground to the post of LDC with immediate effect

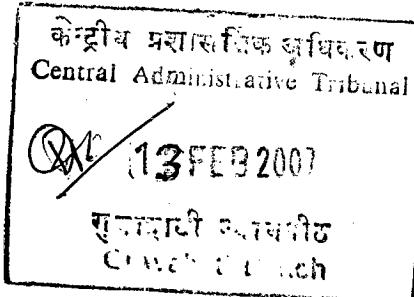
That in the facts and circumstances stated above the Original Application deserves to be allowed with costs.

VERIFICATION

I, Shri Amarjyoti Lahkar, S/o- Gokul Chandra Lahkar, aged about 22 years, Vill & P.O- Sanakuchi, Dist- Nalbari, Assam, do hereby verify that the statements made in Paragraph 1 to 2 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 19th day of December 2006.

Sri Amar Jyoti Lahkar



1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO. 171/2006

SHRI AMARJYTI LAHKAR

.....APPLICANT

-VERSUS-

UNION OF INDIA AND OTHERS

.....RESPONDENTS

IN THE MATTER OF

Reply to the rejoinder filed by the applicant

- 1) That the respondents have received a copy of the rejoinder and gone through the same and understood the contentions made thereof. Save and except the statement categorically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1 of the rejoinder, the respondents beg to submit that the applicant is a son of Shri Gakul Chandra Lahkar. Shri Gakul Chandra Lahkar, Sepoy was missing since 05.01.1993 while he was posted at the office of the Superintendent of Central Excise, PBC-II Range, Guwahati. Shri Gakul Chandra Lahkar was appointed as Sepoy in the Department of Customs and Central Excise in the year 1981. The Asstt. Collector, Central Excise, Guwahati vide order No. C.No. II/39/3/Accts/90/433-35 dated 12.01.1994 engaged Smti Renubala Lahkar, wife of the missing Sepoy Shri Gakul Chandra Lahkar, on purely temporary and on contract basis w. e. f. 05.01.1994 for cleaning and misc work (no work no pay basis).

Compassionate appointments are considered as per a DoPT's O.M. dated 09.10.1998. As per para-11 of the said O.M., a request to grant the benefit of compassionate appointment can be considered only after a lapse of at least years from the date from which the Government servant has been missing subject to some provisions. Representation from Smti Renubala Lahkar, wife of the missing Sepoy Shri Gakul Chandra Lahkar addressed to the Commissioner of

82
Filed by
The Respondents through
Gobinda Das
Addl. Circle
15/2/2007

Shillong. Late on, she requested to consider her son, Shri Amarjyoti Lahkar for compassionate appointment in the grade of Sepoy/LDC in place of her. The applicant was called for interview for compassionate appointments, held on 28.10.2002 & 29.10.2002. Accordingly, he appeared in the interview held on 28 & 29th October, 2002, 17 candidates under Group D category, 16 for LDC category and 5 candidates for under UDC category appeared for compassionate appointments and the vacancy position for compassionate appointment at the time of interview was two for the Group D grade, the selection committee recommended two names for appointment. At the time of interview, the applicant was at serial No. 10 in the List for compassionate appointments. The Selection Committee decided that the candidates who had already appeared before the Selection Committee may be exempted for future personal interviews. These candidates may be offered appointments, on compassionate grounds, as and when vacancies arise without further Personal Interviews.

After the cadre restructuring, compassionate appointments are given now only for the post of Sepoy and TA. For the post of TA(Tax Assistant), required minimum educational qualification is graduate. So, now, he is not eligible to the post of TA as he has not completed his graduation. Moreover, there is no vacancy for the compassionate appointments in the post of Sepoy now. So, his case will be considered in due time for compassionate appointment.

This may be mentioned here that Smti Bithi Dutta is a graduate. She has been appointed as Tax Assistant (TA) on compassionate ground.

The DOP&T's OM dated 9.10.1998 has been relied on in this context and annexed herewith to Annexure - R 1

- 3) That with regard to the statement made in paragraph 2 of the rejoinder, the respondents beg to submit that after the cadre restructuring, compassionate appointments are given now only for the post of Sepoy and TA. For the post of TA (Tax Assistant), required minimum educational qualification is graduate. So, now, he is not entitled to the post of TA as he has not completed his graduation. Moreover, there is no vacancy for the compassionate appointments in the post of Sepoy now. So, his case will be considered in due time for compassionate appointment.

3

Kehozhol Ashi Khiyea

43

Additional Commissioner, Central Excise,
Guwahati

1

2, 3

13

Feb

7 Guwahati

Kehozhol Ashi Khiyea

No. 14014/6/94-Estt(D)

Government of India

Ministry of Personnel, Public Grievance and Pension
(Department of Personnel and Training)

New Delhi 110001

October 9, 1998

OFFICE MEMORANDUMSubject: Scheme for compassionate appointment under the Central Government
Revised Consolidated instructions

The undersigned is directed to say that the existing instructions for making compassionate appointment under the Central Government have since been reviewed in the light of the various court judgements and other decisions including those taken on the various recommendations contained in the Fifth Central pay Commission Report as well as the Study Reports of 1990 and 1994 prepared by the Department of Administrative Reforms and Public Grievances on the subject and they have accordingly been revised/simplified and consolidated as in the enclosed scheme which will supersede all the existing instructions on the subject. This may be brought to the notice of all concerned for information, guidance and necessary action.

Sd/-
(K.K.JHA)
Director (Establishment)

To

All Ministries/Departments of the Government of India

Copy to :-

1. The Comptroller and Auditor General of India
2. The Secretary, Union Public Service Commission
3. Rajya Sabha Secretariat
4. Lok Sabha Secretariat
5. All State Governments/Union Territories Administrations
6. All attached/subordinate offices under the Department of Personnel and Training/Ministry of Home Affairs
7. National Commission for SC/ST, New Delhi
8. National Commission for OBC, New Delhi
9. The Secretary, Staff Side, National Council
10. The Registrar General, The Supreme Court of India
11. The Department of Administrative Reforms and Public Grievances
Sardar Patel Bhavan, New Delhi 110001
12. All Offices/Sections of DOP&T
13. Establishment (D) Section (500 copies)

5

SCHEME FOR COMPASSIONATE APPOINTMENT

1. OBJECT

The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

2. TO WHOM APPLICABLE

To a dependent family member -

(A) of a Government servant who -

(a) dies while in service (including death by suicide), or

(b) is retired on medical grounds under Rule 2 of the CCS

(Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants), or

(c) is retired on medical grounds under Rules 38 of the CCS (pension Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants), or

(B) of a member of the Armed Forces who -

(a) dies during service, or

(b) is killed in action, or

(c) is medically boarded out and is unfit for civil employment.

Note I "Dependent Family Member" means:

(a) spouse, or

(b) son (including adopted son), or

(c) daughter (including adopted daughter), or

(d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para,

Who was wholly dependent on the Government servant/member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

Note II "Government servant for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or adhoc or contract or re-employment basis.

Note III "Confirmed work-charged staff" will also be covered by the term 'Government servant' mentioned in Note III above.

Note IV "Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in a civil post.

"Re-employment" does not include employment of ex-serviceman before the normal age of retirement in a civil post.

3. AUTHORITY COMPETENT TO MAKE COMPASSIONATE APPOINTMENT

(a) Joint Secretary incharge of administration in the Ministry/Department concerned.

(b) Head of the Department under the Supplementary Rule 2(10) in t

case of attached and subordinate offices.

(c) Secretary in the Ministry/Department concerned in special types cases.

4. Posts To Which Such Appointments Can be made

Group C or Group D posts against the direct-recruitment quota.

5. ELIGIBILITY

(a) The family is indigent and deserves immediate assistance for relief from financial destitution and

(b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

6. A. EXEMPTIONS

Compassionate appointments are exempted from observance of the following requirements :-

(a) Recruitment procedure i.e. without the agency of the Staff Selection Commission or the Employment Exchange.

(b) Clearance from the Surplus Cell of the Department of Personnel and Training/Directorate General of Employment and Training.

(c) The ban orders on filling up of posts issued by the Ministry of Finance (Department of Expenditure).

B. RELAXATIONS

(a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I Age eligibility shall be determined with reference to the date of application and not the date of appointment.

Note II Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

(b) Secretary in the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules in the case of appointment at the lowest level e.g. Group 'D' or Lower Division Clerk post, in exceptional circumstances where the condition of the family is very hard provided there is no vacancy meant for compassionate appointment in a post for which the dependent family member in question is educationally qualified. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the person concerned, if still unqualified, are liable to be terminated.

Note In the case of an attached/subordinate office, the Secretary in the concerned administrative Ministry/Department shall be the competent authority for this purpose.

(c) In the matter of exemption from the requirement of passing the typing test those appointed on compassionate grounds to the post of Lower Division Clerk will be governed by the general orders issued in this regard.

(i) by the CS Division of the Department of Personnel and Training

if the post is included in the Central Secretariat Clerical Service; or

(ii) by the Establishment Division of the Department of personnel and Training if the post is not included in the Central Secretariat Clerical Service.

(d) Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirement of possessing the educational qualifications prescribed in the relevant rules provided the duties of the post can be satisfactorily performed by her without possessing such educational qualifications.

DETERMINATION/AVAILABILITY OF VACANCIES

(a) Appointment on compassionate grounds should be made only on regular basis and that too only if regular vacancies meant for that purpose are available.

(b) Compassionate appointments can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post. The appointing authority may hold back upto 5% of vacancies in the aforesaid categories to be filled by direct recruitment through Staff Selection Commission or otherwise so as to fill such vacancies by appointment on compassionate grounds. A person selected for appointment on compassionate ground should be adjusted in the recruitment roster against the appropriate category viz SC/ST/OBC/General depending up on the category to which he belongs. For example, if he belongs to SC category he will be adjusted against the SC reservation point if he is ST/OBC he will be adjusted against ST/OBC point and if he belongs to General category he will be adjusted against the vacancy point meant for General category.

(c) While the ceiling of 5% for making compassionate appointment against regular vacancies should not be circumvented by making appointment of dependent family member of Government servant on casual/daily wage/ad-hoc/contract basis against regular vacancies there is no bar to considering him for such appointment if he is eligible as per the normal rules/criers governing such appointments.

(d) The ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy.

(e) Employment under the scheme is not confined to the Ministry/Dept. /Office in which deceased/medically retired Government servant had been working such an appointment can be given anywhere under the Government of India depending upon availability of a suitable vacancy meant for the purpose of compassionate appointment.

(f) If sufficient vacancies are not available in any particular office to accommodate the persons in the waiting list for compassionate appointment, it is open to the administrative Ministry/Department/Office to take up the matter with other Ministries/Departments/Offices of the Government of India to provide at an early date appointment on compassionate grounds to those in the waiting list.

8. RELATED REQUESTS FOR COMPASSIONATE APPOINTMENT.

(a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated request it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government

-5-

servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the secretary of the Department/Ministry concerned.

(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement of medical guruji of a Government servant and not the age of the applicant at the time of consideration.

9. WIDOW APPOINTED ON COMPASSIONATE GROUNDS GETTING REMARRIED

A widow appointed on compassionate grounds will be allowed to continue in service even after re-marriage.

10. WHERE THERE IS AN EARNING MEMBER

(a) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

(b) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

11. MISSING GOVERNMENT SERVANT

Cases of missing Government servants are also covered under the scheme for compassionate appointment subject to the following conditions
a) A request to grant the benefit of compassionate appointment can be considered only after a lapse of at least 2 years from the date from which the Government servant has been missing provided that.

- i) an FIR to this effect has been lodged with the police,
- ii) the missing person is not traceable and
- iii) the competent authority feels that the case is genuine.

b) This benefit will not be applicable to the case of a Government servant:-

- i) Who had less than two years to retire on the date from which he has been missing; or
- ii) Who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.

(c) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the scheme.

(d) While considering such a request, the results of the Police investigation should also be taken into account, and

(e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned.

PROCEDURE

(a) The proforma as in Annexure may be used by Ministries/Departments/Offices for ascertaining necessary information and processing the cases of compassionate appointment.

(b) The Welfare Officer in each Ministry/Department/Office should meet the members of the family of the Government servant in question immediately after his death to advise and assist them in getting appointment on compassionate grounds. The applicant should be called in person at the very first stage and advised in person about the requirements and formalities to be completed by him.

(c) An application for appointment on compassionate grounds should be considered in the light of the instructions issued from time to time by the Department of Personnel and Training (Establishment Division) on the subject by a committee of officers consisting of three officers-one chairman and two Members- of rank of Deputy Secretary/Director in the Ministry/Department and officers of equivalent rank in the case of attached and subordinate offices. The Welfare Officer may also be made one of the Members/Chairman of the committee depending upon his rank. The committee may meet during the second week of every month to consider cases received during the previous month. The applicant may also be granted personal hearing by the committee, if necessary, for better appreciation of the facts of the case.

(d) Recommendation of the committee should be placed before the competent authority for a decision. If the competent Authority disagrees with the committee's recommendation, the case may be referred to the next higher authority for a decision.

13. UNDERTAKING

A person appointed on compassionate grounds under the scheme should give an undertaking in writing (as in Annexure) that he/she will maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her appointment may be terminated forthwith.

14. REQUEST FOR CHANGE IN POST/PERSON

When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment should be deemed to have ceased to exist. Therefore,--

(a) he/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on considerations of compassion should invariably be rejected.

(b) an appointment made on compassionate ground cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.

15. SENIORITY

(a) The inter-se seniority of persons appointed on compassionate grounds may be fixed with reference to their date of appointment. Their inter-polation with the direct recruits/promotees may also be made with reference to their dates of appointment without disturbing the inter-se seniority of direct recruits/promotees.

(b) Date of joining by a person appointed on compassionate grounds shall be treated as the date of his/her regular appointment.

16. GENERAL

(a) Appointments made on grounds of compassion should be done in such a way that persons appointed to the post do have the essential educational and technical qualifications and experience required for the post consistent with the requirement of maintenance of efficiency of administration.

(b) It is not the intention to restrict employment of a family member of the deceased or medically retired Group 'D' Government servant to a Group 'D' post only. A s such, a family member of such Group 'D' Government servant can be appointed to a Group 'C' post for which he/she is educationally qualified, provided a vacancy in Group 'C' post exists for this purpose.

(c) The Scheme of compassionate appointments was conceived as far back as 1958. Since then a number of welfare measures have been introduced by the Government which have made a significant difference in the financial position of the families of the Government servants dying in harness/retired on medical grounds. An application for compassionate appointment should, however, not be rejected merely on the ground that the family of the Government servant has received the benefits under the various welfare schemes. While considering a request for appointment of compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes mentioned above) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family etc.

(d) Compassionate appointment should not be denied or delayed merely on the ground that there is reorganisation in the Ministry/Department/Office. It should be made available to the person concerned if there is a vacancy meant for compassionate appointment and he or she is found eligible and suitable under the scheme.

(e) Requests for compassionate appointment consequent on death or retirement on medical grounds of Group 'D' staff may be considered with greater sympathy by applying relaxed standards depending on the facts and circumstances of the case.

(f) Compassionate appointment will have precedence over absorption of surplus employees and regularisation of daily wage/casual workers with/without temporary status.

(g) Any request to increase the upper age-limit of 55 years for retirement on medical grounds prescribed in para 2(A) (b) and (c) above in respect of Group 'A'/'B'/'C' Government servants and to bring it at par

ith the upper age-limit of 57 years prescribed therein for Group 'D' Government servants on the ground that the age of retirement has recently (May, 1998) been raised from 58 years to 60 years for Group 'A'/'B'/'C' Government servants (which is at par with the age of retirement of 60 years applicable to Group 'D' Government Servants) or on any other ground should invariably be rejected so as to ensure that the benefit of compassionate appointment available under the scheme is not misused by seeking retirement on medical grounds at the fag end of one's career and also keeping in view the fact that the higher upper age-limit of 57 years has been prescribed therein for Group 'D' Government servants for the reason that they are low paid Government servants who get meagre invalid pension in comparison to others.

17. IMPORTANT COURT JUDGEMENTS

The ruling contained in the following judgements may also be kept in view while considering cases of compassionate appointment.

(a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and others Vs G. Ananta Rajeswara Rao (1994) 1 SCC 192) has held that appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable

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

(i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate grounds

(ii) The posts in group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.

(iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.

(iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

(v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.

(vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

(vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.

(c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India vs. Mrs Asha Ramchandra Ambedkar and others (JT 1994(2) S.C.183) that the High Courts and Administrative Tribunals can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.

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

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