

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 188/2006

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(See Rule 12)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 188/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(S) Jyotimoy Bhattacharyee

Respondant(S) U.O.I. Aous

Advocate for the Applicant(S) R. Das
Ms. T. Das

Advocate for the Respondant(S) CASE

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IF/BD No. <u>266.325226</u> Dated <u>22.7.06</u> <u>Sd/-</u> Dy. Registrar <u>Ri</u> <u>Steps taken with envelopes.</u> <u>Ri</u>	2.8.06	Present : The Hon'ble Mr K.V.Sachidanandan, Vice-Chairman The Hon'ble Mr Gautam Ray, Admin. Member. The claim of the applicant is that he is working as a Puzari in the Station Kalimandir of 222 ABOD, C/O 99 APO from 1977 and now he has completed more than 29 years of service. Annexures 1 and 5 are the documents that have been produced to show that he has been appointed to the said post. The contention of the applicant is that he has been appointed against the regular post and he has been rendered service continuously without any break and he was paid a fix amount of Rs.2800/- which was initially Rs.150/- per month in 1977. The grievance of the applicant is that his services are not regularised and he should be provided with all service benefits

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2

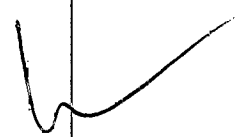
including pay scale, arrear pay and pension etc. Despite representations and reminders to the various authorities he has not been granted these benefits and aggrieved by the said inaction he has filed this application seeking for the following reliefs :

(1) To regularise the services of the instant applicant as Puzari of the Station Kali Mandir of 222 ABOD C/O 99 APO with effect from the date of his completion of 10 years of service as such with effect from 1.9.87 to till date in the time scale of pay (His joining date being 1.9.77),

(2) to pay all arrear salaries in time scale with effect from 1.9.1987 to till date and/or the date of his retirement in the year 1996 (in case the prayer for correction of age is accepted by the concerned authorities and/or by this Hon'ble Tribunal),

(3) to pay the monthly pension thereafter i.e. from September, 1996 to till date after adjustment of his salaries already received from September 1996 to till date from the monthly pension due.

Heard Mr R.Das, learned counsel for the applicant and Mr M.U.Ahmed, learned Addl.C.G.S.C for the respondents. The counsel for the applicant submitted that he will be satisfied if a direction is issued to the 2nd respondent to consider his case and for that purpose he would like to file a comprehensive representation within 10 days from today and dispose of the same by the 2nd respondent within a time frame. The learned counsel for the respondents has no objection if that process will suffice the ends of justice. Accordingly we direct



the 2nd respondent or any other competent authority to consider and dispose of the representation on merit within a time frame of 3 months from the date of receipt of such representation.

O.A. is disposed of. No order as to costs.


Member


Vice-Chairman

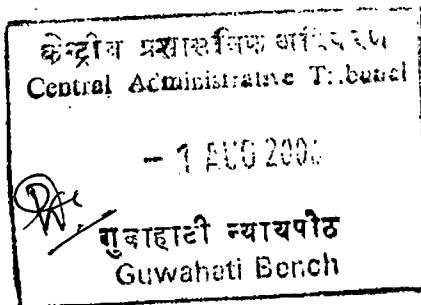
Received copy

04/08/06

4/8/06

4.8.06

Copy of the
order handed
over to the L/ADs
for the parties.
4/8



Filed by the
Applicant
Shri Jyotirmoy
Bhattacharjee
through
[Signature]
01-08-06,
(R. DAS)
Advocate in
the Applicant.

DISTRICT : KAMRUP (METRO)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI - 781005.**

O.A.No. 188 of 2006.

Shri Jyotirmoy Bhattacharjee ... Applicant

- Versus -

The Union of India and others ... Respondents

SYNOPSIS

This Original Application of the applicant under section 19 of the Administrative Tribunal Act, 1985 has been filed against the inaction of the concerned respondents on the applicant's representation dated 8.3.2006 praying for regularisation of his services as Puzari in the Station Kalimandir of 222 A.B.O.D. C/o 99 A.P.O. with effect from the date of completion of his 10(ten) years of service i.e. with effect from 31.8.1987 (since the date of his initial appointment on 31.8.1977) although the applicant had by now rendered more than about 29 (twenty nine) years of service as such till date. The said representation has been sent under registered post (through proper channel) to the ~~Secretary to~~ i.e. through the Commandant, 222 A.B.O.D., C/o 99 A.P.O. by the applicant and the same has been addressed to...

- (ii) -

addressed to the Secretary to the Government of India, Ministry of Defence, New Delhi (Respondent no1) through the Commandant HQ 51 Sub Area, 222 A.B.O.D. , C/o 99 A.P.O. (Respondent no. 2) but since 8.3.06 and/or 21.3.06 i.e. the date of sending the same by registered post) no reply thereto has been received, by the instant applicant for reasons best known to the concerned respondents, although a period of more than 4(four) months have elapsed.

It may be pertinent to note here that the applicant has been paid now a fixed amount of pay of Rs.2800/- per month, which was initially Rs.150/- per month in the year 1977, which is too inadequate for the applicant to maintain his family consisting of 4(four) family members including himself consisting of his wife, an unmarried daughter and an unemployed son. The applicant therefore prays before this Hon'ble Tribunal that his case for regularisation of his services as Puzari in the Station Kali Mandir in the time-scale of pay with effect from 31.8.1987 alongwith all service benefits including arrear pay in time scale etc. till date may be paid to him by issuing a direction to the concerned respondents as per law to redress his grievences for the ends of justice.

01-08-06
(RANJIT DAS)

Advocate for

Date:-

the Applicant.

Place :- Guwahati-5.

FORM - 1

APPLICATION OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

AT GUWAHATI - 781005.

Title of the case :- Original Appln.No. 88 of 2006.

*Sri Jyotirmoy Bhattacharjee ... Applicant

- Versus -

The Union of India and others ... Respondents

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স্বীকৃত
স্বাক্ষরিত

Signature of the Applicant

Signature for Registrar, C.A.T.,
Guwahati Bench, Ghy-5.

P.T.O....

DISTRICT : KAMRUP (METRO)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

AT GUWAHATI -781005.

O. A. NO. 88 OF 2006.

*Shri Jyotirmoy Bhattacharjee,

S/o Late Sachindra Kr. Bhattacharjee,

Puzari of Station Kali Mandir,

222 A.B.O.D., C/o 99 A.P.O. Applicant

- Versus -

1. The Union of India, being represented by
the Secretary to the Government of India,
Ministry of Defence, New Delhi - 110001.

2. The Commandant,

222 A.B.O.O., C/o 99 A.P.O.

3. The Commandar,

HQ for 51 Sub Area,

222 A.B.O.D., C/o 99 A.P.O.

4. The Administrative Officer,

222 A.B.O.D., C/o 99 A.P.O.

5. Shri W.S. Singh,

Camp. CCME, for Commandant,

222 A.B.O.D., C/o 99 A.P.O.

..... Respondents

DETAILS OF APPLICATION :

1. Particulars of the orders against which the application
is made :-

There is no impugned order. The applicant

made a

Filed by the
Applicant
in Jyotirmoy
Bhattacharjee
through
Specy
01-08-06
(R - DAS)
Advocate
for the Applicant

made a representation dated 8.3.2006 and/or on 21.3.06 through proper channel, which was although addressed to the Secretary to the Govt. of India, Ministry of Defence, New Delhi-110001, but the same was sent under registered post through proper channel i.e. to the Commandant 222 A.B.O.D. C/o 99 A.P.O. praying for regularisation of the services of the applicant as Pujari in Station Kali Mandir 222 A.B.O.D. C/o 99 A.P.O. with effect from the date of completion of 10(ten) years of service i.e. w.e.f. 31.8.1987 (since the date of his initial appointment as such was on 31.8.1977). The applicant having by now rendered more than 29(twenty nine) years of service till date.

But since 8.3.06 and/or 21.3.06 i.e. the date of sending above representation, no reply thereto has been received by the instant applicant for reasons best known to the concerned respondents. The instant applicant is thus aggrieved against the inaction of the concerned respondents in the matter of his regularisation of his services in the time-scale of pay as Pujari in Station Kali Mandir 222 A.B.O.D. C/o 99 A.P.O. and hence the instant application, before this Hon'ble Tribunal for redressal of his genuine and lawful grievances.

2. JURISDICTION OF THE TRIBUNAL :- The applicant declares that the ...

that the subject matter of the representation dated 8.3.06 and/or 21.3.06 for regularisation of the applicant's services as Puzari in Station Kali Mandir as aforesaid has not been disposed of by the concerned respondents and the same is pending disposal and against the inaction of the concerned respondents, the applicant wants redressal of his genuine and lawful grievances which is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :- The applicant further declares that this application is made within the limitation period prescribed in section 21 of the ~~Arbitration~~ Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

(A) That the instant applicant is a permanent resident of village : Amsing Jorabat, under Satgaon Police Outpost of Noonmati P.S., in the district of Kamrup(Metro), Assam. He is a citizen of India by birth and as such he is entitled to the benefits guaranteed under the Constitution of India and the other laws of the land.

(B) That the applicant is working in the post of Puzari of Station Kali Mandir of 222 A.B.O.D.C/o 99 A.P.O. since long. He was appointed to the aforesaid post of Puzari in consultation with Col. G.S.Soman, Commandant 222A.B.O.D. C/o 99 A.P.O. with effect from 1.9.1977 vide appointment

order dated...

order dated 31.8.1977 issued by Major A.V.Gadkari of 222 A.B.O.D., C/9 99 A.P.O. while he was holding the post of Administrative Officer.

A copy of the aforesaid appointment order dated 31.8.77 is enclosed herewith and marked as Annexure - 1.

(C) That the applicant states that prior to 1977 he also worked as Puzari in Station Kali Mandir in the year 1973 for about 1 year approximately with a consolidated salary of Rs.150/- (Rupees one hundred fifty) only per month. At that time the main Purohit/Puzari of the aforesaid Kali Mandir was one Shri M.M.Chakraborty. In course of time there the applicant developed some differences with said Sri Chakraborty in the year 1974 and consequently left the job at that time.

(D) That thereafter in pursuance of the appointment order dated 31.8.1977 issued by Major A.B.Gadkari of 222 A.B.O.D. C/o 99 A.P.O. the applicant has been appointed as Puzari again the aforesaid Station Kali Mandir with effect from 1.9.77 and the applicant immediately joined the same and was doing his job with great devotion, sincerity and hard works to the best of his abilities and to the entire satisfaction of his superiors. His services has been appreciated by the concerned Authorities vide Appreciation certificate dated 21.1.87 issued by Lt.Col.Golap Singh of

222 A.B.O.D. ...

222 A.B.O.D. C/9 99 A.P.O. while he was holding the post of Administrative Officer. The applicant's appointment as Puzari in Station Kali Mandir finds support in his certificate wherein it has been specifically stated that the applicant was working as Mandir Puzari since 1973.

A copy of the aforesaid appreciation certificate dated 21.1.87 is enclosed herewith and marked as Annexure -2.

(E) That the applicant states that till date the applicant has rendered more than 29 (twenty nine) years of service. During which he has never taken any sort of leave like casual leave, earned leave, commuted leave except on the following 3 (three) occasions viz:

- (i) Vide leave application dated 5.6.86 he availed 30 days leave with effect from 9.6.1986 ;
- (ii) Vide application dated 2.5.99 he availed 20 days leave with effect from 3.5.1991 and ;
- (iii) Vide leave application dated 8.3.01 only 20 days leave with effect from 15.3.01 to 3.4.01.

It may be pointed out that on no occasion during those period the petitioner has been hospitalised and/or seriously ill on any other occasions.

Copies of the aforesaid leave applications dtd. 5.6.86, 2.5.91 and 8.3.01 are enclosed herewith and marked as Annexure-3, 3(1) and 3(2) respectively.

(F) ...

(F) That the applicant states that initially both in the year 1973 and 1977 his salary was at the rate of Rs.150/- (Rupees one hundred fifty only) per month. The applicant raised no objection to it although the monthly salary was much less than the minimum wages prescribed at the relevant period. However, from time to time the salary was increased from Rs. 150/- and at present for about last 3 years approximately the applicant is being paid at the rate of Rs.2800/- per month in the aforesaid post of Puzari in the Station Kali Mandir, ABCD C/o 99AFO.

(G) That the applicant is having an official accommodation behind the aforesaid Station Kali Mandir where he is residing with his family consisting of his 4(four) members of his family members including himself. The other family members who are wholly dependent on him are as follows :-

(a) Wife - Smti Nilima Bhattacharjee aged about 55 years-
House - wife.

(b) Daughter - Miss Lakshmi Bhattacharjee aged about 25 yrs.

-(unemployed daughter and unmarried daughter)

(c) Son - Sri Prabin Bhattacharjee, aged about 24 years

-(Unemployed and unmarried son)

(H) That with the aforesaid monthly fixed salary of Rs.2800/- being too inadequate to provide for the provisions of lives for the aforesaid 4(four) family members. Moreover there are other expenses like cost of education of the children ...

children, maintenance of livelihood of the family and as such the applicant is facing acute financial hardship for paucity of fund. As such, the applicant has made a representation on 8.1.05 for enhancement of his salaries before ~~you~~ the concerned Respondents which is pending disposal.

A copy of the aforesaid representation dated 8.1.05 is enclosed herewith and marked as Annexure - 4.

(I) That the applicant states that vide communication No. 2159/ISKM/ME/Fin dtd. 28.5.05 issued by Capt. CCME, Sri W.S. Singh of 222 A.B.O.D. C/o 99 A.P.O. addressed to the instant applicant it has been requested to submit the following :-

- (i) bio-data of the applicant pertaining to his service.
- (ii) date of birth
- (iii) educational qualification
- (iv) date of appointment of station kali Mandir Puzari
- (v) leave availed from time to time
- (vi) hospitalisation if any
- (vii) number of children (their marital status)
- and (viii) their date of birth etc. respectively.

It has already been stated that these particulars are required for considering the petitioner's service commitment, enhancement of pay and other benefits.

A copy of ...

A copy of the aforesaid communication of the Respondent No. 5 is enclosed hereto and marked as Annexure - 5.

(J) That in reply to the aforesaid communication of the respondent no. 5 your applicant submitted his bio-data on 8.6.05 stating inter alia therein wrongly that your applicant's date of birth is on 7th October, 1953 instead of 24.10.1936, which was a bonafide mistake on the part of your applicant inadvertently made. This date of birth i.e. ~~th~~ on 24.10.1936 has been given as per Horoscope of your applicant which is the basis of his correct age. It is therefore necessary to rectify the aforesaid mistake in the interest of justice by correcting the date of birth of your applicant as 24.10.1936 instead of 7.10.1953.

A copy of the applicant's Horoscope is enclosed hereto and marked as Annexure-6.

(K) That your applicant also submits that if your Lordships' considers it just and proper, your applicant may be referred to any Medical Board and/or Medical Authority so as to ascertain his correct age to which your applicant as already stated has no objection. This is for the sake of correct and accurate assessment of your applicant's ...

applicant's age and/or the date of birth, which escaped your applicant's attention at the relevant time due to bonafide mistake more so because the applicant is always busy with his duties of Pujas at the temple regularly and as such find no time to look even to his own service paper and/or to consult someone in this regard.

Secondly now - a days the applicant feels very weak due to old age even to do his usual works in the temple for which the applicant's son namely Sri Prabin Bhattacharjee is regularly helping him in his duties as Puzari at 222 ABOD C/o 99 APO at the Station Kali Mandir.

Thirdly, after the aforesaid discovery of mistake of recording the applicant's correct age and also the applicant's horoscope which has been already submitted before the concerned Authorities. And it transpires that if applicant's date of birth is 7.10.1953 his present age would be about 52 years which is not correct as the present age of his wife Smti Nilima Bhattacharjee is about 55 years who is younger to the applicant and not older to him, apparent on the face of records and the same needs to be corrected immediately on the basis of the applicant's age recorded in his Horoscope which is also supported by an affidavit sworn in by him on 24.2.06.

(L) That the applicant has already submitted a petition on 8.3.06 ...

on 8.3.06 addressed to the Commandant, 222 ABOD C/o 99 APO for correction of his age i.e. year and date of birth from 7.10.1953 to 24.10.1936. This averment in respect of the applicant's age i.e. the date of birth is again supported by an affidavit dated 24.02.06, as stated earlier, to the effect that the age in the horoscope of the applicant is the correct age i.e. his date of birth is 24.10.1936.

A Copy of the affidavit dtd. 24.2.06 sworn in by the instant applicant is enclosed herewith and marked as

Annexure - 7.

(M) That the applicant states that on 10.8.05 your applicant was again issued a certificate from the office of the concerned Authorities to the effect that your applicant is working as Puzari in the Station Kali Mandir of 222 ABOD C/o 99 A.P.O.

A copy of the aforesaid proficiency certificate dtd. 10.8.05 is enclosed hereto and marked as Annexure - 8.

(N) That your applicant states that be that as it may, your applicant begs to point out herein his grievances as follows:-

(1) That although your applicant was initially appointed in the post of Puzari sometime in the year 1973 in the said Kali Mandir he has stated earlier that owing to differences he left the job after expiry of about 11 months thereafter

vide appointment ...

vide appointment order dated 31.8.1977 (Annexure-1) and he again started working as Puzari in the aforesaid Station Kali Mandir w.e.f. 1.9.1977 at a fixed salary of Rs.150/- p.m. which is must less than the minimum wages fixed under the Minimum Wages Act, 1948. The aforesaid salary was increased from time to time but ~~it~~ it was always remained below the minimum Wages Act.

(ii) That it is about 3 years from now that the salary for the aforesaid job of Puzari has been ~~not~~ increased to Rs.2800/-, although the applicant is entitled to be regularised after expiry of 10(ten) years of such services on fixed pay under the extant law, which has not been done.

(iii). In the above facts and circumstances your applicant would request your Lordship to kindly direct the concerned respondents to regularise the applicant's services as Puzari in the Station Kali Mandir under the concerned respondents in a time-scale of pay from the date of completion of the applicant's 10(ten) years of service as Pujari under the Department w.e.f. 1.9.1987.

(iv) That your applicant may also be allowed to go on retirement (after acceptance of his prayer for correction of his year and date of birth as aforesaid i.e., with

effect from ...

effect from October, 1996) on the basis of date of birth i.e. on 24.10.1936 as per his Horoscope and affidavit on completion of 60 years of superannuation age and thereafter grant pension w.e.f. October, 1996 to till date after adjustment of excess amount drawn from October, 1996 as salary from his pension, gratuity leave encashment etc. as admissible to him after his retirement with effect from October, 1996 including his group insurance, if any admissible.

(v) That your applicant most respectfully pray that his son viz; Shri Prabin Bhattacharjee who has been regularly assisting him in his duties as Puzari at the Station Kali Mandir, 222 ABCD, C/o 99 APO since long and he is well conversant with the process of worship of mother Goddess Sri Sri Kali, who is a graduate and is in need of employment, may kindly be appointed after your applicant's retirement in his place in the post of Puzari of the said Mandir on regular basis so as to do justice to the applicant's family because he has suffered for the long 28 years or ~~more~~ more with such a meagre salary payment below the pay prescribed under the minimum wages Act, which is untenable in law.

A separate application for the purpose of

appointment of...

appointment of the petitioner's son Sri Prabin Bhatte-
chargee in his post of Puzari is being submitted to
your Honour for his kind consideration in case the
petitioner's year and date of birth is accepted by
your Honour in the time-scale of pay and your petitioner
/applicant is allowed to go on retirement with effect
from October, 1996 for the ends of justice, ~~although~~
alongwith his pension after due regularisation of his
services since 1.9.1987 i.e. after 10 years of continuous
service of the applicant.

(O) That the applicant most respectfully submits
that great economic injustice would be caused to the
applicant if his services are not regularised even after
having rendered 10(ten) years of continuous service with
effect from 1.9.77 to till 1.9.87 on the face of about
29(twenty nine) years of service rendered by him, more so
when it is well established in law that as per the Hon'ble
Apex Court decision as well as the decision of the Hon'ble
Gauhati High Court in a catena of cases that when a casual
/master roll/temporary worker works for more than 240 days
under continuously without a break/the state, he attains a
valuable right to continue in his post as it is establis-
hed that his so called temporary services is necessary to
the Department ...

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the Department and when the said employee continues to do his work more than 10(ten) years without any break regularly he attains the right to regularisation in the post on permanent basis in time-scale of pay. This is what has not been done in the instant case as the applicant having rendered more than 29 years of continuous uninterrupted service since 1.9.1977 to till date, his services were neither regularised nor he was paid the appropriate time-scale of pay which is a case of gross economic injustice to him which is also violative of the provisions of the 'Preamble' to the Constitution of India read with provisions of Article 14, 16 and 21 of the Constitution of India and hence not sustainable in law.

(P) That the applicant also submits that in the above facts and circumstances of the case it is crystal clear that the concerned Authorities/respondents have obtained his services using him as a forced labour which is prohibited under the Article 23 of the Constitution of India and thus the inaction of the concerned Authorities/respondents are liable to be set aside and quashed.

13/1

(Q) That the applicant submits that no employer (if it is a state) can pay the employee for his services less than what has been provided for under the Minimum Wages Act and in this case even the minimum wages has not been paid to the instant applicant, which is also

which is also not sustainable in law.

(R) That the applicant ~~submits that as employee~~ states that being thus aggrieved has made a representation on 8.3.2006 addressed to the Secretary to the Govt. of India, Ministry of Defence, New Delhi - 110001 which has been submitted through proper channel i.e. viz; to the Commandant, 222 A.B.O.D. C/O 99 A.P.O. sent under registered post on 21.3.06 praying thereby for regularisation of his services as Puzari in the Station Kali Mandir, 222 A.B.O.D. C/O 99 A.P.O. with ~~the date~~ effect from the date of completion of his 10(ten) years of service i.e. on 31.8.1987 and payment of salaries in time scale of pay from 1.9.1987 to till date and/or till his retirement on October, 1996 (if his prayer for correction of age, which has also ~~been~~ being ~~ex~~ agitated before this Hon'ble Tribunal, is accepted by the concerned respondents) and adjustment of his salaries drawn in excess if any, from his monthly pension.

A copy of the aforesaid representation dated 8.3.06 and/or 21/3/06 ~~excluding connected Annexures thereto~~ sent under registered post for regularisation of his services is enclosed herewith and marked as Annexure - 9.

(S)...

(S) That the applicant states that the copies of the aforesaid representations dated 8.3.06 and/or 21.3.06 (date of posting) for regularisation of his services as Puzari in Station Kali Mandir has also been sent in advance under certificate of posting on 22.3.06 to the other respondents no. 1, 3, 4 and 5 respectively.

The applicant has also claimed all relevant/pertinent ~~his~~ service benefits vide his representation dtd. 8.3.06 (sent by registered post on 21.3.06) to the respondent no. 1 through the respondent no. 2.

Copies of the aforesaid certificate of posting dtd. 22.3.06 and service benefits representation dtd. 8.3.06 are also enclosed herewith and marked as Annexure - 10 and 10(a) respectively.

(T) That the applicant states that at present he is about 70(seventy) years old and is feeling weak and feeble to perform his duties without the help of his son and as such the instant application may kindly be disposed of as expeditiously as possible.

5. GROUNDS OF RELIEF WITH LEGAL PROVISIONS :-

(I) For that the inaction impugned herein of the concerned respondents is causing great economic injustice to the instant applicant which infringes the 'preamble' to the Constitution of India violating the provisions of 'economic justice' and hence the impugned inactions of the Authorities is not sustainable in law.

(II) ...

(II) For that the applicant having rendered services as Puzari in Station Kali Mandir of 222 A.B.O.D.C/o 99 A.P.O. continuous uninterrupted service with effect from 1.9.1977 and has completed 10(ten) years of service on 1.9.1987 on the face of about 29 years of service in total till date, more so when it is well established in law as per Hon'ble Apex Court and the Hon'ble Gauhati High Court when a casual/master roll/temporary worker works for more than 240 days regular un-interrupted continuous service he attains a right to continue in the post as his services as such is deemed to be necessary to the Department and therefore after 10 years he attains a right to continue and regularisation in the time-scale of pay. This is what has ~~not~~ not been done in the instant case of the applicant. As such he has a right to be considered for regularisation of his services in the time scale of pay. The impugned inaction on the part of the respondents is therefore violative of the applicant's right to equality, equal opportunity in the matter of employment and his right to life as enshrined in Articles 14, 16 and 21 of the Constitution of India and hence the impugned inaction of the Authorities is not sustainable in law.

(III) For that the concerned respondents have obtained the services of the instant applicant as a forced labour

which is ...

which is prohibited under the law i.e. as per provisions of Article 23 of the Constitution of India and thus the inaction on the part of the concerned respondents is liable to be set aside and quashed.

~~XXXX~~

(IV) For that the fixed pay given to the petitioner since 1977 to till date raising from Rs.150/- to Rs.2800/- are below the minimum wages prescribed under the Minimum Wages Act, 1948 and as such the same is not sustainable in law and therefore the petitioner is entitled to regularisation in the appropriate time scale of pay in the facts and circumstances of the case more so when he has been continuing for more than 29 years under fixed pay below the minimum wages which too is not sustainable in law and hence liable to be set aside and quashed.

(V) That the applicant states that at present he is about 70(seventy) years old and is feeling very weak and feable to perform his daily duties without the help of his son and as such the instant application may kindly be disposed as expeditiously as possible, more so when the law of the land provides that an employee of the Govt. should not work beyond 60(sixty) years and in this view of the matter the impugned inaction of the Authorities/ respondents is liable to be struck off by this Hon'ble Tribunal as unsustainable.

6.DETAILED OF ...

11

The applicant made a representation on 8.1.05 (Annexure - 4) so as to raise his salaries in time-scale addressed to the Commandant, 222 A.B.O.D. C/9 99 A.P.O. The respondent no. 5 on behalf of the respondent no. 2 sent a letter to the applicant vide No.2159/SKM/ME/Fin, dtd. 28.5.05 (Annexure - 5) asking the applicant to furnish his service particulars. The applicant and again represented and again represented the same on 8.6.05/ 8.3.06 and 24.2.06 by furnishing the particulars. But out of inadvertance he committed a mistake in stating his date of birth, which ~~might~~ ought to be 24.10.1936 instead of 7.10.1953, for which a separate application is being filed before this Hon'ble Tribunal soon. But although a period of more than 4(four) months has elapsed therefrom yet no reply thereto has been received by the instant applicant and the representations are pending. Hence this Original Application for redressal of his grievances by this Honble Tribunal.

(A) The applicant further declares that he

had not...

had not previously filed any Original Application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other Authority (except what has been stated above) and that no case is pending before any Court and if decided a list of the decisions should be given with reference to the number of Annexures to be given in support thereof, has been given herein.

(B) That ~~this application~~ the applicant states that this application is filed bonafide and for the ends of justice.

In view of the above mentioned facts as stated in paragraphs 4(A) to 4(T) the applicant most respectfully prays for the following reliefs :-

- (1) to regularise the services of the instant applicant as Puzari of the Station Kali Mandir of 222 A.B.O.D. ~~9px~~ C/o 99 A.P.O. with effect from the date of his completion of 10(ten) years of service as such with effect from 1.9.1987 to till date in the time scale of pay (His joining date being 1.9.1977) ;

(2)....

(2) to pay all arrear salaries in time scale with effect from 1.9.1987 to till date and/or the date of his retirement in the year 1996 (in case the prayer for correction of age is accepted by the concerned Authorities and/or by this Hon'ble Tribunal) ;

(3) to pay the monthly pension thereafter i.e. from September, 1996 to till date after adjustment of his salaries already received from Sept/1996 to till date from the monthly pension due ;

AND/OR passsuch further or other order or orders as to your Lordships' may deem fit and proper for the ends of justice.

And for this the Applicant, as in duty bound, shall ever pray.

9. INTERIM RELIEF/ORDER, IF ANY PRAYED FOR :-

It is prayed that in the interim an order may kindly be passed so that the instant applicant is not disturbed till disposal of the instant Original Application.

10. IN THE EVENT OF APPLICATION BEING SENT BY REGISTERED POST IT MAY BE STATED WHETHER THE APPLICANT DESIRES TO HAVE ORAL HEARING AT THE ADMISSION STAGE AND IF SO, HE SHALL ATTACH A SELF ADDRESSED POST CARD OR INLAND LETTER AT WHICH A SELF-ADDRESSED POST CARD OR INLAND LETTER AT WHICH INTIMATION REGARDING THE DATE OF HEARING COULD BE SENT TO HIM.

- No, since he has engaged the following learned Advocates to conduct his case.

Shri RAJUIT DAS,

MS. T.DAS,

Advocates, FOR THE APPLICANT,

Gauhati High Court, Guwahati - 1

11. Number of Bank Draft/Postal Order filed in respect of the application fee.

- A crossed Postal order of Rs.50/- (Rupees fifty only) being the application fee vide No. 266 325226 dated 22.7.2006 in favour of the Registrar, Central Administrative Tribunal at Guwahati-5 is enclosed herewith. (in original).

12. List of enclosures :-

As detailed in the Index filed alongwith this Application.

Verification...

VERIFICATION

I, Jyotirmoy Bhattacharjee, son of Late
Sachindra Kr. Bhattacharjee, aged about 70 years,
by religion Hindu, by occupation a Puzari in
Station Kali Mandir of 222 A.B.O.D., C/o 99 A.P.O.
the instant applicant do hereby verify that the
statements made in paragraphs 1 to 12 of this
Original Application are true to my personal
knowledge/legal advice and that I have not
suppressed any material fact.

জ্যোতির্ময় ভট্টাচার্য

Date:- 31-7-06.

Signature of the Applicant.

Place: Guwahati-1.

...

Affidavit ...

21

Annexure-1

9
25

Maj. A. Y. Gadhara
Administrative Officer

222 Advanced Base Ordnance Depot
C/O 99 APO

31 Aug 77

Dear Mr. A. Sen Gupta

Received your letter and I am thankful for introducing
Shri JOTIMOI BHATTACHARJEE for the post of Pujari in Station
Haldibhanga.

With consultation to Col GC Saman Comdt 222 ABOD the
above individual is employed as Pujari wef 01 Sep 77.

Thank you very much for the assistance rendered.



Yours friendly,

[Signature]
Major A. Y. Gadhara

Shri A. Sen Gupta
Everest Ice Co.
AT Road, Calcutta

entrusted to
be transcribed

[Signature]
(R. D. S.)
Adv.

Lt Col Gulab Singh
Adm Officer

२२२ अग्रिम स्पाई आयुध भण्डार
222 ADVANCE BASE ORDNANCE DEPOT
द्वारा २६ सेना हाउस
C/O 99 APO

Annexure - 2. (8)

(26)

TO WHOM IT MAY CONCERN

श्री Jotymoy Bhattacharjee son of श्री Shashi Bhusan Bhattacharjee resident of Gauhati has been working in Station Kali Mandir as religious teacher (Mandir Pujari) since 1973. I am happy to say that his work related to Kali Mandir was characterised by zest and devotion and he is a valuable man of the temple. He is having sound knowledge about the religion and is a man of excellent character with a high sense of religious duties.

I wish him a grand success in the field of religion.



G. Singh
Lt Col
(Gulab Singh)
Lt Col
Administrative Officer
for Commandant

Attest.
(R. DAS)
Adv.

Annexure-3.

Date 05/6/86

From: Shri Jyotirmoy Bhattacharya
Purohit, Sri Kali Mander
Harangi

27

To: The Commandant
Adv Base Camp EME
C/o 99APO

Sir,
sub: Request for 30 days
leave

With due regards I have
to say that I have to attend
the marriage of my brother's
daughter. I also have to
settle several domestic matter
regarding land and property.

So I request you sir to
kindly grant me 30 days
leave w.e.f. 9 JUN '86

Thanking you sir,

yours sincerely

श्री/ज्योतिर्मय भट्टाचार्य

Dated: 5 JUN '86

(Shri Jyotirmoy Bhattacharya
Purohit Sri Kali Mander)

Attested.
Adv
(R. DAS)
Adv

(Jyotirmoy Bhattacharya
PANDITJI SRI KALI)

Annexure-3(1)

Date: 02/5/91

To,

O I C Adm
1 Adv Base Workshop EME
C/O 99 APO

LEAVE TO PRIEST OF STATION KALI MANDIR

Respected Sir,

1. I humbly request you to grant me 20 days leave with pay from 03 May 91 to enable me to shift the materials purchased for erecting a dwelling house at Amsing Jorabat.
2. I shall remain grateful for this act of your kindness.

Thanking you,

Your's faithfully

জয়তীর্ময় ভট্টাচার্য

(Joytirmoy Bhattacharjee)
Priest Stn Kali Mandir

Date - 2/5/91

CS
15

Atchd
24
(R. DAS)
Adv.

Date: 08/03/2001

(29)

To.
The Commandant,
222 ABOD.

REQUEST FOR LEAVE

Sir,

With due respect I beg to submit that I have got some domestic problems which are required to be solved without further delay.

In view of the above, it is solicited that I may please be granted 20 days leave wef. 15 March' 2001 to 3 April' 2001 and oblige. In this connection I would like mention him that I did not avail any leave for the last 8 years.

Thanking you,

Attested.
(R.D.S.)
Adv.

Yours faithfully
श्री (जयप्रिय) श्री भट्टाचार्य

Date: - 8 March' 2001

(Shri Jaypramoy Bhattacharye)
Panditji, Kali Mandir
Narangi. Cantt.

Annexure-4.

(30)

(15)

Date - 08/01/2005.

To,

The Commander

HQ 51 sub Area

(Through Comdt, 222 ABOD)

PAY AND ALLOWANCES - RELIGIOUS TEACHER OF
STATION KALI MANDIR,

Respected Sir,

With due respect I beg to submit the following few lines for favour of your kind action please.

2. That I have been serving in station Kali Mandir as a priest for the last about 30 years with zeal and efficiency, but my salary has not considerably been increased in the face of high cost of living.

3. That I have to maintain a family of four members and my only son is studying engineering for which I have to spend a huge amount for his education. During these hard days it has become a problem to get the both ends meet.

4. In view of the above, it is solicited that my salary may please be increased from Rs 2700.00 to Rs 4000.00 and oblige.

Thanking you,

Yours faithfully

শ্রী জ্যোতির্ময় বসু

(JYOTIRMAY BHATTACHARJEE
PANDITJI STN KALI MANDIR

Attchd.
2
(R.D.A.S)
Adv.

Dated 8/1/05

Annexure - 5. 3. 16

222 Advance Base Ordnance Depot
C/O 99 AFO

2159/SKM/ME/Fin

28 May 2005

Mr J Bhattacharjee
Pujari Stn Kali Mandir

REQUIREMENT OF BIO-DATA

Sir,

1. In consideration to your service prospects, you are requested to submit your Bio-data pertaining to your service regarding your date of birth, education qualification, date of employment at Station Kali Mandir, leave availed time to time, Hospitalisation and No of children, their marital status and their date of birth.
2. This is required for considering your service commitments with Station Kali Mandir, enhancement of Pay in future and other service benefits.

Yours faithfully,

(W S Singh)
Capt
CCME
for Commandant

Attested
(R. DAS)
Adv.

Annexine-6.

24th Oct 1936 A.D.
10th AB with 1343 BS.
Saturday.

Attended
2/1/77
(R. DAS)
Adm.



(33)

IN THE COURT OF MAGISTRATE : KAMRUP AT GUWAHATI-781001.

A F F I D A V I T

I, Jyotishmoy Bhattacharjee, son of Late Bashi Bhusan Bhattacharjee, aged about 69 years, a resident of Station Kalimandir of 222 ABOJ C/O 99 A.P.O., do hereby solemnly affirm and declare as follows :-

1. That I am working in the post of Pujari at the Station Kali Mandir of 222 A.B.O.D. C/O 99 A.P.O. since long.
2. That on 24.11.2005 one of my relatives while going through my service papers detected that my age has been wrongly recorded in my service record as my date of birth cannot be on 7.10.1953 as recorded in my service records as per my petition dated 8.6.2005, which was wrong. I considered the same and found that the mistake appears to be true. It caught my attention at that time and I found that it was a bonafide mistake on my part. The correct date of birth ought to be 24.10.1936 as per my horoscope and not 7.10.1953 as wrongly furnished by me and recorded by the office of 222 A.B.O.D.C/O 99 A.P.O. This is because the year and the date of my birth was mistakenly written by me instead of 24th October, 1936 it was wrongly written

as ...

24/2

Attested.
[Signature]
CR. DAS
Adv.

as 7th October, 1953, and that I have received Class-VII standard education at home under uncle's guidance hence I have no educational certificate.

3. That I am an Indian Citizen by birth. I have no proof of my age except my horoscope which shows that I was born on the 24th October, 1936 at village - Khem Sahasra P.O. Kornigram, P.S. Rajnagar in the Moulavibazar Subdivision of the then Sylhet district of British India. My father's name is Late Sashi Bhusan Bhattacharjee and my mother's name is Late Sutrishna Bhattacharjee. My horoscope name is Sri Motilal Sharma. and as such I am at present 69 years old approximately.

4. That this fact caught my attention very recently after 8.6.2005 when I could trace out my horoscope from ~~abandoned~~ old papers and if that is taken into account then my age at present is about 69 years but as per recordings in my service record at present my age is about 52 years i.e. still now more than 8(eight) years are still left for my retirement on superannuation at the age of 60 years. Therefore under the extant rules I have a valuable right to agitate the same before my employer i.e. 222 A.B.O.D. C/O 99 A.P.O. through your Honour for rectification of the already committed mistake in my date and year of birth keeping intact the month of my birth being October.

This is true to my knowledge.

5. That I lost both my parents very early while I was ~~only~~ about 13(thirteen) years of age, when my maternal uncle Late Nagendra Nath Chakraborty brought me (some time in the year 1950) to his place i.e. at village Haluabasti, P.S. Borhat in the then district of Sibsagar, Assam (where he was ...

8/24/2

19/10/36
13/10/50
24/10/52

40
(19)
(34)

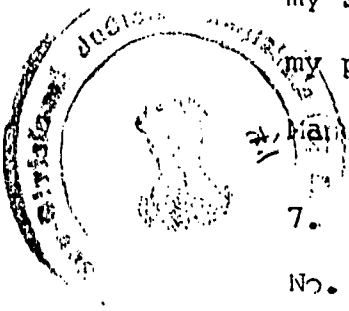


41
(20)
(35)

he was a permanent resident) at that time. He had a grocery shop there and he used to perform the job of a Purohit/Pujari also and did other rituals. I learnt the art of puja/worship and rituals from my aforesaid maternal uncle and after his death I came to Narangi in search of a job. At that time I was about 37 years of age and at that time I was appointed as a Pujari in the Station Kali Mandir sometime in the year 1973 and thereafter again in 1977 with effect from 1.9.1977 on a regular basis at a monthly salary of Rs.150/- per month only.

20/10/2005
24/10/2005
24/10/2005
24/10/2005
24/10/2005

6. That my salaries have been increased from time to time and in the last 3(three) years now I am drawing my salaries at the rate of Rs.2800/- per month which is my present salary for the post of Pujari in Station Kali Mandir, at 222 A.B.O.D. C/O 99 A.P.O.



7. That recently only in response to a communication No. 2159/SKM/ME/Fin, dtd. 23.5.2005 issued by CCME of 222 A.B.O.D. C/O 99 A.P.O. I have submitted my bio-data on 8.6.2005 to my employer through C.C.M.E. 222 A.B.O.D. C/O 99 A.P.O. for considering my service commitments with Station Kali Mandir, enhancement of pay and other service benefits, wherein my date and year of birth was wrongly shown and/or recorded as 7th October, 1953 in place of 24th October, 1936, which is my correct age of birth, as per my horoscope.

8. That this affidavit is sworn in by me for the purpose of correction of my date and year of birth from

7th October...

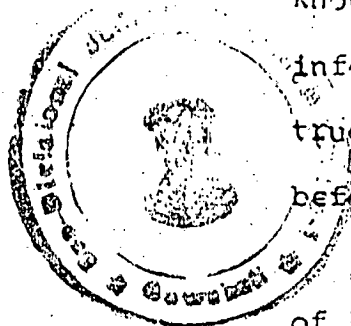
24/12
2005
24/12/2005
24/12/2005
24/12/2005

41
(21)
(36)

7th October, 1953 keeping intact the month of my birth namely 'October' except the date and year i.e. 24th and 1936 in place of 7th October, 1953, so as to enable the concerned Authorities to correct my date of birth as 24th October, 1936 instead of 7th October, 1953, and that this affidavit would be used for the sole purpose of correction of my date of birth.

9. That the statements made in this affidavit and in paragraphs 1 to 8 above are true to the best of my knowledge, those made in paragraphs - are true to my information derived from records, which I believe to be true and correct and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 24th day of February, 2006 at Guwahati.



সীতাশ্রী শ্রী রতনজিৎ
DEPONENT

Identified by me.
(RANJIT DAS) 24/2/06
Advocate

Solemnly affirmed and declared before me by the abovenamed deponent who is identified by Sri R. Das, Advocate on this the 24th day of February, 2006 at Guwahati.

24/2/06

MAGISTRATE
KAMRUP : GUWAHATI- 1.

...

Annexure-8, Date: 10-08-05.

CERTIFICATE



COY CDR
COY CDR MIL EST
(FOR COMMANDANT)
222 ABOD

Certified that Mr. J Bhattacharjee, resident of Jorabat (Narangi) is working as "PUJARI" in Stn Kali Mandir, Narangi Cantt.



Unit : 222 ABOD

Station : C/O 99 APO

Dated : 10 Aug 05

COY CDR MIL EST
FOR COMMANDANT
222 ABOD

Attested.
H
(R. DAS)
Adv.

at that time.

To

Date:- 8/3/06.

The Secretary to the Government of India,
Ministry of Defence,
New Delhi - 110001.

(Through the Commandant, 222 A.B.O.D., C/O 99 A.P.O.)

THROUGH PROPER CHANNEL

Sub:- Prayer for regularisation of my services as Pujari in Station Kali Mandir 222 ABOD C/o 99 A.P.O. with effect from the date of completion of 10(ten) years of service i.e., with effect from 31.8.1987 and payment of salaries in time-scale of pay from 1.9.1987 to till the date of retirement and Pension thereafter w.e.f. 23-10-1996 and adjustment of the Salaries drawn in excess with my pension.

Sir,

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

1. That I am working in the post of Pujari of Station Kali Mandir of 222 A.B.O.D., C/O 99 A.P.O. since long. I was appointed to the post of Pujari as aforesaid in consultation with Col.G.S.Soman, Commandant 222 A.B.O.D. with effect from 01.09.1977 vide appointment order dated 31.8.77 issued by Major A.V.Gadkari of 222 A.B.O.D.C/O 99 A.P.O. while he was holding the post of Administrative Officer.

A copy of the aforesaid appointment order dtd. 31.8.77 is enclosed herewith and marked as Annexure - 1.

2. That the petitioner states that prior to 1977 he also worked as Pujari in Station Kali Mandir in the year 1973 for about 1 year approximately with a consolidated salary of Rs.150/- (Rupees one hundred fifty only) per month. At that time the main Purohit/Pujari of the aforesaid Kali Mandir was one Shri M.M.Chakraborty. In course of my services there as Pujari I had developed some differences in the year 1974 with said Sri Chakraborty, the main Pujari of the aforesaid temple and consequently I left the job at that time.

3...

Attsthd
H
(R, DAS)
Adv.

3. That thereafter in pursuance of the appointment order dated 31.8.1977 issued by Major A.B.Gadkari of 222 A.B.O.D. C/o 99 A.P.O. I was appointed as Pujari again in the aforesaid Station Kali Mandir with effect from 1.9.77 and I immediately joined the same ^{and} I have been doing my job with great devotion, sincerity and hard work to the best of my abilities and to the entire satisfaction of my superiors. My services has been appreciated by the Authorities vide Appreciation certificate dated 21.1.87 issued by Lt.Col.Bolap Singh of 222 ABOD C/o 99 A.P.O. while he was holding the post of Administrative Officer. My appointment as Pujari in Station Kali Mandir finds support in his certificate wherein it has been specifically stated that I was working as Mandir Pujari since 1973.

A copy of the aforesaid appreciation certificate dtd. 21.1.87 is enclosed herewith and marked as Annexure - 2.

4. That the petitioner states that till date the petitioner has rendered more than 28 years of service. During which he has never taken any sort of leave like casual leave, earned leave, commuted leave except on 3(three) occasions namely -

- (i) Vide leave application dated 5.6.86 he availed 30 days leave with effect from 9.6.1986.
- (ii) Vide application dated 2.5.99 he availed 20 days leave with effect from 3.5.1991 and
- (iii) Vide leave application dated 8.3.01 20 days leave with effect from 15.3.01 to 3.4.01.

It may be pointed out that on no occasion during those period the petitioner has been hospitalised and/or seriously ill on any other occasions.

Copies of the aforesaid leave applications dtd. 5.6.86, 2.5.99 and 8.3.01 are annexed herewith and marked as Annexure -3,3(1) and 3(2)

5. That the petitioner states that initially both in the year 1973 and 1977 his salary was at the rate of Rs.150/- per month. The petitioner raised no objection to it although the monthly salary was much less than the minimum wages prescribed at the relevant period. However, from time to time the salary was increased from Rs.150/- and at present for the last 3(three) years approximately the petitioner is being paid at the rate of Rs.2800/- per month in the aforesaid post of Pujari in the Station Kali Mandir.

6. That the petitioner is having an official accommodation behind the aforesaid station Kali Mandir where he is staying with his family consisting his 4(four) members including himself. The other family members who are dependent on him are as follows :-

(a) Wife - Smti Nilima Bhattacharjee aged about 55 years
House wife.

(b) Daughter- Miss Lakshmi Bhattacharjee aged about 25 years
(unemployed and unmarried)

(c) Son - Sri Prabin Bhattacharjee, aged about 23 years

~~xxxx~~ (unemployed and unmarried).

7. That with the aforesaid monthly fixed salary of Rs.2800/- being too inadequate to provide for the provisions of lives for the aforesaid 4(four) family members. Moreover there are other expenses like cost of education of the children, maintenance of livelihood of the family and as such the petitioner is facing acute financial hardship for paucity of fund. As such the petitioner has made a representation on 8.1.05 for enhancement of his salaries before your Honour which is also pending disposal.

A copy...

A copy of the aforesaid representation dtd. 8.1.05 is enclosed herewith and marked as Annexure - 4.

8. That the petitioner states that vide communication No. 2159/SKM/ME/Fin dtd. 28.5.05 issued by Capt. CCME Sri W.S. Singh of 222 ABOD C/O 99 APO addressed to the petitioner it has been requested to submit the following :-
- (i) biodata of the petitioner pertaining to his service
 - (ii) date of birth
 - (c) educational qualification
 - (d) date of appointment of station kali mandir pujari
 - (e) leave availed from time to time
 - (f) hospitalisation if any
 - (g) number of children (their marital status)
 - and (h) their date of birth etc. respectively.

It has already been stated that these particulars are required for considering the petitioner's service commitment, enhancement of pay and other benefits.

A copy of the aforesaid communication dtd. 28.5.05 is enclosed herewith and marked as Annexure - 5.

9. That in reply to the aforesaid communication of your Honour's office, your petitioner submitted his biodata on 8.6.05 stating inter alia therein that your petitioner's date of birth is on 7th October, 1953 instead of 24.10.1936, which was a bonafide mistake on the part of your petitioner inadvertently made. This date is as per your petitioner's Horoscope which is the basis of his correct age. It is therefore necessary to rectify the aforesaid mistake in the interest of justice.

A copy of my Horoscope is enclosed herewith and marked as Annexure-6.

10. That your petitioner also submits that if your Honour considers it just and proper, your petitioner may refer the same to any Medical Board and/or Medical Authority so as to ascertain his correct age to which your petitioner has no objection. This is for the sake of correct and accurate assessment of your petitioner's age and/or date of birth, which escaped my attention at the relevant time due to bonafide mistake ~~more so~~ ^{because} I am always busy with my duties at the temple regularly and as such find no time to look even to my service paper and/or to consult someone in this regard.

Secondly now-a-days I feel very weak due to old age even to do my usual works in the temple for which my son namely Sri Prabin Bhattacharjee is regularly helping me in my duties as Pajari at 222 ABOD C/O 99 APO Station Kali Mandir.

Thirdly, after the aforesaid discovery of mistake of recording my correct age and also my Horoscope is hereby being submitted (as Annexure - 6) as it also transpires that if my date of birth is 7.10.1953 my present age would be 52 years which is not correct as the present age of my wife Smti Nilima Bhattacharjee is about 55 years who is younger to me and not older to me, apparant on the face of records and the same needs to be corrected immediately on the basis of my age recorded in my Horoscope ^{which} is also supported by the affidavit sworn in by me on 24th Feb/06 vide (Annexure - 7).

11. That I have already submitted a petition on 08/03/06 addressed to the Commandant, 222 ABOD C/O 99 APO for correction of my year and date of birth i.e. on 24.10.1936 instead of 7.10.1953. This averment in respect of my age...

- 6 -

of my age i.e. the date of birth is again supported by an affidavit sworn in by me ~~xxxx~~ on 24/02/06 to the effect that the age in the horoscope is the correct age.

A copy of the aforesaid affidavit dtd. 24/02/06 is enclosed herewith and marked as Annexure - 7.

12. That your petitioner state that on 10.8.05 your petitioner was again issued a certificate from the office of your Honour to the effect that your petitioner is working as Pujari in the Station Kali Mandir of-222 ABOD C/0.99 APO.

A copy of the aforesaid certificate dtd. 10.8.05 is enclosed herewith and marked as Annexure - 8.

13. That your petitioner states that be that as it may, your petitioner beg to point out herein his grievances which are as follows :-

(A) That although your petitioner was initially appointed in the post of Pujari sometime in 1973 he has stated earlier that owing to differences he left the job after expiry of 11 months thereafter vide appointment order dtd. 31.8.1977 (Annexure - 1) I have again started working as Pujari in the aforesaid Station Kali Mandir with effect from 1.9.1977 at a fixed salary of Rs.150/- p.m. which is much less than the minimum wages fixed under the Minimum Wages Act, 1948. The aforesaid salary was increased from time to time but it was always ^{remained} below the minium Wages Act.

(B) That it is about 3 years from now that my salary for the aforesaid job of Pujari has been increased to Rs.2800/- , although I am entitled to be regularised after expiry of 10(ten) years of services on fixed pay under the extant law, which has not been done.

(C)...

- 7 -

(C) In the above facts and circumstances your petitioner would request you kindly to regularise his services in a time-scale of pay from the date of completion of his 10(ten)years of service as Pujari under your kind disposal i.e. from 1.9.1987.

(D) That your petitioner may also be allowed to go on retirement (after acceptance of my correct year and date of birth as aforesaid i.e. w.e.f. October, 1996) on the basis of date of birth i.e. 24.10.1936 on completion of 60 years of supernumery age and thereafter grant pension w.e.f. October, 1996/^{to}till date after adjustment of excess amount drawn from October, 1996 as salary from his pension, gratuity, leave encashment etc. as admissible to him after his retirement w.e.f. October, 1996, including group insurance if any.

(E) That your petitioner most respectfully pray that his son viz; Shri Prabin Bhattacharjee who has been regularly assisting him in his duties as Pujari at the Station Kali Mandir since long and he is well conversant with the process of worship of mother Goddess Sri Sri Kali, who is a graduate and he is in need of employment, may kindly be appointed after your petitioner in his place in the post of Pujari of Station Kali Mandir on a regular basis so as to do some justice to the petitioner's family because he suffered for the long 28 years or more with a meagre salary ^{payment of} which is untenable in law.

A separate application for the purpose the petitioner's son Sri Prabin Bhattacharjee ^{or appointment of} ^{in his post of pujari} is being submitted to your Honour for his kind consideration in case the petitioner's year and date of birth is accepted by your

Honour

Honour in the time-scale of pay and your petitioner is allowed to go on retirement w.e.f. October, 1996 for the ends of justice, alongwith his pension after due regularisation of his services since 1.9.1987 i.e., after 10 years of continuous service of the petitioner.

14. That the petitioner most respectfully submits that great economic injustice would be caused to the petitioner if his services are not regularised even after 10(ten) years of continuous service rendered w.e.f. 1.9.77 to till 1.9.87 on the face of about 29 years service rendered by him, more so when it is well established in law as per the Hon'ble Supreme Court of India's decision as well as the decision of the Hon'ble Gauhati High Court that when a casual/master roll/temporary worker works for more than 240 days regularly without any break under the state he attains a valuable right to continue in his post as it is established that his so called services is necessary to the Department and when the said employee continues to do his work more than 10 years without any break regularly he attains the right to regularisation in the post on the permanent basis. This is ^{what has} not been [↑] done in the instant case as the petitioner having rendered more than 28 years of continuous uninterrupted service since 1.9.1977 to till date, ~~his~~ his services were neither regularised nor he was paid the appropriate time scale of pay which is a case of gross economic injustice to him which is also violative of the provisions of the 'preamble' to the Constitution of India read with provisions of Article 14, 16 and 21 of the Constitution of India and hence not sustainable in law.

15. That the petitioner also submits that in the facts and circumstances of the case it is crystal clear that the concerned Authorities have obtained my services using me as a forced labour which is prohibited under

prohibited under Article 23 of the Constitution of India, and thus ^{its inaction & the Authorities are} liable to be set aside and quashed.

16. That the petitioner submits that no employer (if it is state) can pay the employee for his services less than the minimum wages and in this case minimum wages has not been paid to the instant petitioner which is not sustainable in law.

17. That this application for regularisation is made bonafide and for the ends of justice.

It is therefore most respectfully prayed that your Honour would consider my case sympathetically and regularise my services and grant all service benefits to me as per law, for the ends of justice.

And for this the petitioner, as in duty bound, shall ever pray.

স্রী জ্যোতিষ্ময় ভট্টাচার্য

(SRI JYOTISHMOY BHATTACHARJEE)

PUZARI STATION KALI MANDIR
222 ABOD C/O 99 APO

Date:- 8/3/06.

Place:- Guwahati -27.

COPIES FORWARDED FOR INFORMATION IN ADVANCE FOR FAVOUR OF KIND CONSIDERATION AND SYMPATHETIC ORDERS TO :-

1. The Secretary to the Govt. of India, Ministry of Defence, New Delhi - 110001.
2. The Commandar H2 51 Sub Area, 222 ABOD C/O 99 A.P.O.
3. The Administrative Officer, 222 ABOD C/O 99 A.P.O.
4. Shri W.S. Singh, Capt COME, for Commandant, 222 ABOD C/O 99 A.P.O.

স্রী জ্যোতিষ্ময় ভট্টাচার্য

(SRI JYOTISHMOY BHATTACHARJEE)

PUZARI, STATION KALI MANDIR
222 ABOD C/O 99 A.P.O.

Date:- 8/3/06.

Amount of Stamps affixed Rs. 40/-
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UNDER CERTIFICATE OF POSTINGS.

TO

dt. 22/3/06.

1. The Secretary to the Government of India,
Ministry of Defence,
NEW DELHI - 110001.
2. The Commander HQ,
51 SUB AREA, 222 A.B.O.D.,
C/o 99 A.P.O.
3. The Administrative Officer,
222 A.B.O.D.,
C/o 99 A.P.O.
4. Shri W.S. Singh,
CAPT. C.C.M.E., For Commandant,
222 A.B.O.D.,
C/o 99 A.P.O.



To

Date :- 8/3/06.

The Secretary to the Government of India,
Ministry of Defence,
New Delhi - 110001.

(THROUGH PROPER CHANNEL : the Commdt. 222 ABOD C/o 99 APO)

Sub:- Prayer for grant of all service benefits in consideration of more than 19(nineteen) years of service till October, 1996 and more than 28(twenty eight) years of service till date since 1.9.77 as Pujari, Station Kali Mandir, 222 ABOD C/o 99 APO, after adjustment of excess salaries drawn since October, 1996 to till date and grant the following reliefs :-

- (1) Timescale of pay ^{with arrear pay} from Sept/1987 to Oct/1996 i.e. the date of my retirement on acceptance of correction of year and date of birth and regularisation of my services.
- (ii) Pension w.e.f. October, 1996 to till date after adjustment of excess salaries drawn from Oct/96 to till date ^{with arrears & revised rate.}
- (iii) Appointment of my son Sri Prabin Bhatta-chargee in my post of Puzari, Station Kali Mandir of 222 ABOD C/o 99 APO as he has been assisting and working with me since long and is well conversant with the procedure of worship of mother Goddess Sri Sri Kali from October, 1996 onwards ^{and from September 2000 A.D.}
- (iv) Pay admissible gratuity;
- (v) Pay leave encashment benefits as admissible
- (vi) Any other service benefits like group insurance etc.

in lieu of my more than 28 years of service as Puzari, 222 ABOD C/o 99 APO.

Sir,

Most humbly and respectfully I beg to lay before you the following for favour of your kind consideration and necessary orders :-

1. That I am working as a Puzari in Station Kali Mandir 222 ABOD C/o 99 APO since September, 1977 as per appointment order issued by Major A.V. Gadkari while he was holding the post of Administrative Officer of 222 ABOD C/o 99 APO vide appointment order dtd. 31.8.77.

2...

Atksh
CR. DAS
Adv.

2. That I joined my services on 1.9.77 and I have been rendering by now more than 28 years of services in the post of Puzari as aforesaid at the Station Kali Mandir and as such I have completed 10 years of continuous service in September, 1987 and has thus become entitled for regularisation in the aforesaid post of Puzari.

3. That initially in 1977 I was paid a monthly fixed salary of Rs.150/- p.m. which was raised from time to time to Rs.2800/- per month (for about last three years) It may not be out of place to mention that during this period I was not even paid the minimum wages prescribed rate not to speak of time scale of pay, although it is well settled in law that after having rendered continuous 240 days service the casual or master roll worker even attain the right to continue because of his necessity in the department and secondly after 10(ten) years of service the said worker attains the right to get the services regularised etc.

4. That during the entire period of more than 28 (twenty eight) years of service the petitioner took leave only on 3(three) occasions on 5.6.88 for 30 days, on 2.5.99 for 20 days and on 8.3.2001 for 20 days except that he has taken no other and/or any leave during his long 28(twenty eight) years of service which has been continuous, uninterrupted and without any break. There was no extra hand to help him to perform his duties of Station Kali Mandir considering that aspect of the matter the

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matter the petitioner tried to train up his son namely Sri Prabin Bhattacharjee in the art of worship of mother Goddess Kali in the aforesaid Station Kali Mandir. Therefore on many occasions his son Prabin Bhattacharjee has been helping him in his duties even now whenever he falls sick and/or otherwise not well and needs assistance.

Therefore, he has asked his son to submit an application separately to your Honour for consideration of his appointment in the post of Puzari in Station Kali Mandir, which may also be considered as it has suddenly caught my attention that as per my horoscope my date of birth is 24.10.1936 and consequently I have attained the age of superannuation on 23.10.1996 and as such I shall be granted pension in consideration of my long 28 years of service and/or 19 years of service since 1.9.77 to October, 1996 as Puzari in Station Kali Mandir with effect from 23.10.96 after acceptance of correction of my date and year of my birth and after regularisation of my services in the appropriate time-scale of pay with effect from September, 1987 after adjusting excess amount drawn by me as salaries fixed w.e.f. Oct/96 to Feb/2006 for my services including all other service benefits like ^{Arrear pay, Arrear Pension} gratuity, leave encashment and pension etc. w.e.f. October, 1996 onwards.

5. That during my service carrier the concerned Authorities issued me certificate of appreciation on 21.1.1987, 10.8.2005 respectively.

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6. That there was some inadvertant mistake in recording my age as my horoscope was untraceable during the relevant time for which I have also made a separate representation for correction of date and year of my birth on thebasis of horoscope (lateron traeced out by me from old abandoned papers) alongwith a supported affidavit sworn in by me for the purpose of correction of my age recorded in my service book which was erroneously done/given by me.

7. That I have also submitted another representation to your Honour for regularisation of my services as Puzari in Station Kali Mandir with effect from 31.8.1987 and payment of time scale of pay to me with effect from 23.10.96 to till date after adjustment of excess amount drawn by me as monthly salaries during the period from October, 1996 to February, 2006.

8. That I have got a family consisting of 4(four) members including myself and all are dependent on me, I being a sole earner of the family.

9. That my relevant service documents/records are furnished herewith as follows :-

- (i) Appointment order dated 31.8.1977 ;
- (ii) Certificate of appreciation on 21.1.1987, ~~21.1.87~~
- (iii) Leave application dtd. 5.6.86, 2.5.94 and 8.3.01;
- (iv) Representation for enhancement of pay dtd.8.1.05;
- (v) Communication No. 2159/SKM/ME/FIN dtd. 28.5.05;
- (vi) my ~~big data dtd. 8/6/05 and my~~ horoscope
- (vii) An affidavit sworn in by me on 24/2/06;
- (viii) Another certificate of appreciation dtd. 10.8.05.

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(1) Time-scale of pay in the appropriate scale of pay with
arrear pay

(ii) Pension with effect from October, 1996 to till
(with all Russian arrears)

(iii), Appointment of my son Sri Prabin Bhattacharjee

(iv) pay admissible gratuity in lieu of my services ;

(v) pay leave encashment as admissible;

(vi) any other service benefits like group insurance

AND FOR THIS, THE PETITIONER, AS IN DUTY BOUND, SHALL

শ্রীজ্যোতি কৃষ্ণ ভট্টাচার্য

(SRI JYOTISHMOY BHATTACHARJEE)
PUZARI, STATION KALI MANDIR

Date:- 8/3/06.

...6...

खीसा नहीं NOT INSURED
 लगाये गये डाक टिकटों का मूल्य रु ५०/-
 Amount of Stamps affixed Ru. 25/-
 एक रजिस्ट्रार के पास
 Received a Registered 2222
 पानेवाले का नाम
 Addressed to 99 A.P.
 नम्बर 10287
 डाक टिकट
 2/13
 पानेवाले का पता
 Signature of Receiving Officer

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4. Shri W.S.Singh, Capt CCME, for Commandant, 222 ABOD,
C/O 99 A.P.O.

श्री (ज्योतिरिमोय) भट्टाचार्य

(SRI JYOTIRIMOY BHATTACHARJEE)
PUZARI, STATION KALI MANDIR
222 ABOD C/O 99 A.P.O.

Date:- 8/3/06 /

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