

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 270/2006

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

kalit
27.10.17

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CHHATTISGARH BENCH:

1. Original Application No. 270/06
2. Mice Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Sri Sabita Das Chandray
Respondant(S) U.O.F 40ms

Advocate for the Applicant(S) Ms Mangula. Dev....
Ms. P. Dev., Ms. L. Talwar
Advocate for the Respondat(S) Case.

Notes of the Registry	Date	Order of the Tribunal
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<p>The application is in form. is filed/C.F. for Rs. 50/- deposited vide PC/PO No. <u>260 326036</u> Dated <u>27-8-06</u></p>	<p>7.11.06.</p>	<p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.</p>
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Vice-Chairman

lm

Dy. Registrar

Di.

3-11-06

Steps taken.

Di.

13.11.06

certified copy has
been collected by the L/Asst.
for the applicant and a copy
the same has been handed
over to the L. CGSC.
SL.

13/11/06 Sr. Secy

3

CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH.

(O.A.No.270 of 2006.)

DATE OF DECISION: 7.11.2006.

Smti Sabita Das Choudhury

Ms.Manjuli Dev

- VERSUS-

Union of India and ors.

Mr.U.Das
Addl.C.G.S.C.

APPLICANT
ADVOCATE FOR THE
APPLICANT(S)

RESPONDENTS

ADVOCATE FOR THE

RESPONDENT(S)

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

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

Judgment delivered by Hon'ble Vice-Chairman

8/11/06

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

Original Application No.270 of 06

Date of order: This, the 7th Day of November, 2006.

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN

Smti Sabita Das(Choudhury),
W/O Sri Samiran Das,
C/O.Sri Subbro Choudhury,R/o.Urmila Bhawan
Jail Road(Near Promodini Complex).
Shillong-793001.,
Meghalaya.

..... Applicant.

By Advocates Ms. Manjuli Dev, Ms. P. Dev, Ms .L. Talukdar.

-Versus-

1. The union of India, Through
Secretary to the Government of India,
Ministry of Finance, New Delhi.
2. The Accountant General(A&E)
Assam, Maidamgaon, Beltola,
Guwahati.
3. The Deputy Accountant General,
(Administration), The office of the Accountant General
(A &E), Assam, Maidamgaon
Beltola, Guwahati-29.

..... Respondents.

By Advocate M.~~R.C. Saha~~ Sr.C.C.S.C.

ORDER (ORAL)

K.V.SACHIDANANDAN, V.C.:

The applicant is a wife of Shri Samiran Das who was working under the respondents. According to the applicant, her husband is missing since 10.12.997. The applicant lodged an FIR against her husband which was registered as All Women P.S.CaseNo.29/1997 (G. R. Case No.3766/1997) Under Section-498 (A) I.P.C on 10.09.1997. The Officer-In-Charge, All Women Police Station, Panbazar, Guwahati issued a Certificate (Annexure B) dated 2.12.2004 certifying which is reproduced below:-



"Officer-In-Charge
All Women Police Station,
Panbazar, Guwahati

TO WHOM IT MAY CONCERN."

This is to certify that Sri Samiran Das, son of Late Rabindra Nath Das, husband of Smti Sabita Das (Choudhury) is involved in All Women P. S. Case No.29/97(G, R. Case No.3766/97)U/S 498A IPC. His whereabouts is not known since 10.9.97 and could not be traced out. As such the aforesaid case has been charge sheeted on 11.12.97 against Samiran Das showing him absconder.

Officer-In-Charge
All Women P. S. City, Ghy"

2. I have heard Ms. Manjuli Dev learned counsel for the applicant and ~~Mr. G. Baishya, Senior~~ C.G.S.C. for the respondents. The counsel for the applicant has mentioned Swamy's -Pension Compilation and Group Insurance Schemes (Annexure 10) that "if an employee is missing and his whereabouts are not known, his family can be paid the retirement benefits." The applicant has made several representations dated 6.8.98 (Annexure 3), 26.4.2000 (Annexure 6). But the respondents have not responded. Being aggrieved, the applicant has filed this O.A. seeking the following main reliefs:-

"8.1 That the Hon'ble Tribunal be pleased to direct or command the Respondents to immediately pay the applicant all retirement benefits including pension etc. due to her on account of she being the wife of a missing Government employee.

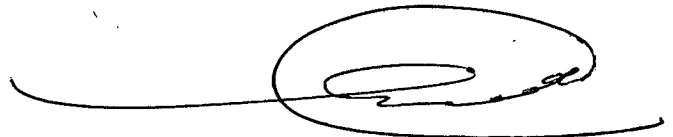
8.2 That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant in any suitable posts on compassionate ground as being the dependent of a missing Government employee.

8.3. Any other reliefs or reliefs to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

3. Ms.U.Das learned Addl. C.G.S.C. for the respondents has submitted that the applicant has prayed for two reliefs. One is Pensionary benefits and another is for compassionate appointment. Therefore, this O. A. will not stand. The counsel for the applicant has submitted that she will be satisfied if the direction is given to the respondents to consider to pay the retirement and pensionary benefits. The counsel for the respondents has submitted that if that will suffice for the interest of justice, she has no objection.

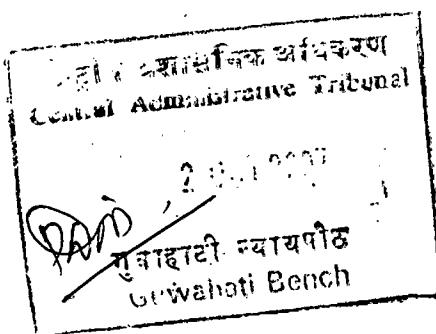
This court, therefore, directs the 2nd respondent and ^{or} any other competent authority to consider her representation within a time frame of three months from the date of receipt of the copy this order. The applicant is also directed to sent the copies of the representation, as well as the copy of this O.A. to the competent authority within 10 days from to-day.

The O.A. is accordingly, disposed of. There will be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI**

[An application U/s. 19 of the Central Administrative
Tribunal Act, 1985]

ORIGINAL APPLICATION NO. 270 /2006

SRIMATI. SABITA DAS (CHOUDHURY).

----- **APPLICANT.**

-Versus-

THE UNION OF INDIA AND OTHERS.

----- **RESPONDENTS.**

I N D E X

SL. NO	PARTICULARS	PAGE NUMBER
1	APPLICATION	1 - 11
2	ANNEXURE - 1	12
3	ANNEXURE - 2	13
4	ANNEXURE - 3	14
5	ANNEXURE - 4	15
6	ANNEXURE - 5	16
7	ANNEXURE - 6	17
8	ANNEXURE - 7	18
9	ANNEXURE - 8	19
10	ANNEXURE - 9	20
11	ANNEXURE - 10	21 - 24

FILED BY:

FOR OFFICE USE:

Monjuli Dev
ADVOCATE

Signature.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

[An application U/s. 19 of the Central Administrative
Tribunal Act, 1985]

Original Application No. 270 /2006

SMTI. SABITA DAS (CHOUDHURY)

----- APPLICANT.

-Versus-

THE UNION OF INDIA AND OTHERS.

----- RESPONDENTS.

LIST OF DATES

SL No	Dates	Particulars	Paras	Annexure	Page No.
1	21/11/96	The marriage between the applicant and Sri. Samiran Das was solemnised	4.2		
2	10/9/97	The applicant lodged an FIR against her husband which was registered as All Women P.S. Case No. 29/97 (G.R. Case No. 3766/97) U/s. 498 (A) IPC.	4.3		
3	10/9/97	The husband of the applicant is missing since 10/9/97 till date.	4.4		
4	11/9/97	The statement of the applicant U/s. 164 Cr.P.C. was recorded by the Learned Sessions Court and the aforesaid case was charge-sheeted on 11/12/97 against the husband of the applicant showing him as absconder	4.4		

SL No	Dates	Particulars	Paras	Annexure	Page No.
5	31/3/98	The applicant made a representation before the authority that she has no source of income for her sustenance and prayed for doing needful for her survival	4.5	I	12
6	6/7/98	The Respondent No. 3 vide his letter asked her to furnish the date on which the FIR was lodged, the nature of complaint and Police Report.	4.5	2	13
7	6/8/98	Applicant in her representation furnished all the requirement/ information as sought for.	4.6	3	14
8	14/7/99	The Applicant again in her representation prayed for payment of all retirement benefits to her and for her appointment on compassionate ground	4.6	4	15
9	7/4/2000	The Respondent authorities in spite of receipt of the Police Report stating her husband missing since 10/7/97 and could not be traced out, asked the applicant whether there is any news from her side about the whereabouts of her husband.	4.7	5	16
10	26/4/2000 and 5/9/2000	Applicant in her representation informed that she has no knowledge about the whereabouts of her husband and prayed for compassionate appointment .	4.7	6	17

SL No	Dates	Particulars	Paras	Annexure	Page No.
11	26/8/2004	The Respondent No. 3 vide their letter again asked the applicant to obtain a Police Report that her husband is missing and has not been traced out.	4.8	7	18
12	2/12/2004	The Officer-in-Charge, All Women P.S. Panbazar, Guwahati issued a certificate certifying that the whereabouts of the husband of the petitioner is not known since 10/9/97 and could not be traced out.	4.9	8	19
13	6/12/2004	The Applicant again made a representation praying inter-alia for her compassionate appointment and for giving her pensionary benefits due and admissible to her.	4.9	9	20
14		The copy of the relevant page of Swamy's Handbook 1999 regarding payment of retirement benefits to the family of the missing employee	4.10	10	21 to 24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

[An application U/s. 19 of the Central Administrative
Tribunal Act, 1985]

Original Application No. 270 /2006

IN THE MATTER OF:

SMTI. SABITA DAS (CHOUDHURY),

W/o. Sri. Samiran Das,

C/o. Sri. Subhro Choudhury,

R/o. Urmila Bhawan,

Jail Road (Near Promodini
Complex),

Shillong - 793001, Meghalaya.

----- APPLICANT.

-Versus-

1) **THE UNION OF INDIA,**

Through -

THE SECRETARY to the Government
of India, Ministry of Finance,
New Delhi.

2) **THE ACCOUNTANT GENERAL (A&E)**

Assam, Maidamgaon, Beltola,
Guwahati - 781 029.

3) **THE DEPUTY ACCOUNTANT GENERAL**

(Administration), The Office
of the Accountant General

Filed by
the Applicant
Sabita Das (Choudhury)
through
Moujibul Karim
Advocate
27/10/2006

(A&E), Assam, Maidamgaon,
Beltola, Guwahati - 29.

----- RESPONDENTS.

12
(Bandyopadhyay) Das (Choudhury)

DETAILS OF APPLICATION

1) PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION -

This application is preferred against the inaction of the Respondents in not payment the applicant all retirement benefits including pension etc, due to her on account of she being the wife of a missing Government employee and also for not appointing her in any suitable post on compensation ground as being the dependent of a missing employee.

2) JURISDICTION OF THE TRIBUNAL -

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

3) LIMITATION -

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

4) FACTS OF THE CASE -

- 4.1) That the applicant is a citizen of India and a permanent resident of the aforesaid place

Contd...

and as such is entitled to the rights, privileges and protection as guaranteed under the Constitution of India and other laws of the country.

Sabitra Das Choudhary

4.2) That the marriage between the applicant and Sri. Samiran Das was solemnised on 21/11/1996. The husband of the applicant was working as a Clerk cum Typist (C/T) under the Accountant General (A&E), Assam.

4.3) That as the applicant was tortured both mentally and physically by her husband after about a month of their marriage for dowry, the petitioner lodged a FIR against her husband which was registered as All Women P.S. Case No. 29/1997 (G.R. Case No. 3766/1997) Under Section 498(A) I.P.C. on 10/09/1997.

Permit
of D. No. 8

4.4) That thereafter the Police searched for the husband of the applicant but he is missing since 10/09/1997 and could not be traced out till date. The statement of the applicant Under Section - 164 Cr.P.C. was recorded on 11/09/1997 by the learned Sessions Court and the aforesaid case was charge sheeted on 11/12/1997 against the husband of the applicant showing him as absconder.

4.5) That the applicant made a representation on 31/03/1998 before the authority that she has no source of income for her sustenance and prayed for doing needful for her survival. In response, the Respondent No. 3 vide letter dated: 06/07/1998 asked her to furnish the date

Contd...

on which the FIR was lodged, the nature of the complaint and Police report.

The copy of the representation Dated: 31/03/1998 and the letter Dated: 06/07/1998 of the Respondent No. 3 are annexed here with and marked as ANNEXURE No. 1 and 2 respectively.

- 4.6) That accordingly, vide representation Dated: 06/08/1998, the applicant furnished all the requirement/information as sought for. As nothing was done, the applicant sends a reminder on 09/10/1998. The applicant furnished the copy of the Police report as sought for vide letter dated: 23/03/1999 and vide representation Dated: 14/07/1999 again sought for payment of all retirement benefits to her and for her appointment on compassionate ground as dependent of a missing Government Employee.

The copies of the representation Dated: 06/08/1998 and 14/07/1999 are annexed herewith and marked as ANNEXURE - 3 AND 4 respectively.

- 4.7) That the applicant states that, the Respondent authorities in spite of receipt of the Police Report stating that the husband of the applicant is missing since 10/09/1997 and could not be traced out, asked the applicant whether there is any news from her side about the whereabouts of her husband vide letter Dated: 07/04/2000. However, the applicant

Contd...

14
Sabita Das (Choudhury)

informed she has no knowledge about the whereabouts of her husband and prayed for compassionate appointment vide her representation Dated: 26/04/2000 and 05/09/2000.

The copy of the letter Dated: 07/04/2000 and the applicant's representation Dated: 05/09/2000 are annexed herewith and marked as ANNEXURE - 5 AND 6 respectively.

- 4.8) That the applicant states that, the Respondent No. 3 vide letter Dated: 26/08/2004 again asked the applicant to obtain a Police report that her husband is missing and has not been traced out, which is nothing but a delaying tactic and harassment to the poor petitioner.

The copy of the letter Dated: 26/08/2004 is annexed herewith and marked as ANNEXURE - 7.

- 4.9) That the Officer-in-charge, All Women Police Station, Panbazar, Guwahati issued a Certificate Dated: 02/12/2004 certifying that the whereabouts of the husband of the applicant is not known since 10/09/1997 and could not be traced out. Enclosing the said certificate, the applicant again made a representation on 06/12/2004 praying inter-alia for her compassionate appointment and for giving her pensionary benefits due and admissible to her.

Contd...

Subika Das (Choudhary)

The copy of the Police Certificate
Dated: 02/12/2004 is annexed here.
with and marked as ANNEXURE - 8.

The copy of the representation
Dated: 06/12/2004 of the petitioner
is annexed herewith and marked as
ANNEXURE - 9.

- 4.10) That the applicant states that, Swamy's handbook - 1999 under Chapter - Quitting Service - other than Retirement, provides for payment of retirement benefits to the family of a missing employee who is missing and his whereabouts are not known. For the said purpose, the family should have lodged a complaint with the Police Station concerned and obtained a report that the employee has not been traced after all efforts had been made. The benefits payable in the first instance are salary due, leave encashment due and the amount of G.P.F and after one year are death gratuities limited to the amount of retirement gratuity, family pension, at normal rate from the date of FIR and the Savings Fund under Group Insurance Scheme. In the instant case, the husband of the applicant was missing since 10/09/1997. FIR was lodged on 10/09/1997 and the applicant submitted Police report that her husband/employee has not been traced after all efforts had been made since 10/09/1997, but the Respondent authorities have not yet paid any of the retirement benefits to the applicant to

Contd...

16
Sabita Das (choudhury)

which she is legally entitled which act is absolutely illegal, arbitrary, and bad in law.

The copy of the relevant page of Swamy's Handbook - 1999 regarding payment of retirement benefits to the family of the missing employee is annexed herewith and marked as ANNEXURE - 10.

4.11) That the applicant state that Swamy's handbook - 2004 under the Chapter - "Reservations and Concession in Appointment" provides for compassionate appointment of a dependent family member of a missing Government employee after two years from the date of missing but till date the Respondent authorities have not appointed the applicant despite fulfilment of all requirements which is illegal, arbitrary, and bad on law.

4.12) That the applicant states that, she has no income to maintain herself and is staying with her brother who is presently facing acute financial hardships to maintain her after his marriage.

5) GROUND FOR RELIEF WITH LEGAL PROVISION -

5.1) That the applicant submits that the act of the Respondent authorities delaying and depriving the applicant from her legitimate claim of getting due retirement benefits and her

Contd...

Sabitā Dās (choedhury)

appointment on compassionate ground despite fulfilment of all requirements as provided under the law without any valid or cogent reason is not only in violation of the provisions of law, but is also in gross violation of the Principle of Natural Justice, equity, good conscience, and administrative fairness.

5.2) That the applicant submits that, there cannot be any impediments under the law on the part of the Respondent authorities in denying the aforesaid benefits to the applicant and that having not done till date is not only illegal, arbitrary and bad in law, but is also in gross violation of the mandate of Article - 14, 15, 16, 19 and 21 of the Constitution of India.

5.3) That the applicant submits that it is a fit case where this Hon'ble Court may be pleased to interfere into the matter in exercise of extra-ordinary jurisdiction vested under Article - 226 of the Constitution of India and protect the interest of the petitioner who is a poor helpless destitute lady.

5.4) That the Applicant demanded justice which is denied to her.

6) DETAILS OF REMEDIES EXHAUSTED -

The applicant states that she has no other alternative efficacious and speedy remedies than to file this application. The applicant has submitted several representations before the Respondents but to no results.

Contd...

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT -

The Applicant further declare that she had not previously filed any application, Writ petition, or suit regarding the matter in respect of which the application has been made, before any court or any other authority or any other branch of the Tribunal nor any such application, Writ Petition or suit is pending before any of them.

8) RELIEFS SOUGHT FOR -

Under the facts and circumstances of the case, the applicant prays for the following relief -

- 8.1) That the Hon'ble Tribunal be pleased to direct or command the Respondents to immediately pay the applicant all retirement benefits including pension etc. due to her on account of she being the wife of a missing Government employee.
- 8.2) That the Hon'ble Tribunal be pleased to direct the Respondents to appoint the applicant in any suitable posts on compassionate ground as being the dependent of a missing Government employee.
- 8.3) Any other relief or reliefs to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.
- 8.4) Costs of the application.

Contd...

Sabir Das (Choudhury)

9) INTERIM RELIEF PRAYED FOR -

That the Hon'ble Tribunal be pleased to direct the Respondents to pay provisional pension and other retirement benefits to the applicant and further to appoint her in any suitable posts on compassionate ground thereby enacting immediate financial assistance to the applicant who is a poor destitute lady till final disposal of the application.

10) THE APPLICATION HAS BEEN FILED THROUGH ADVOCATE -

- a) MS. MONJULI DEV
- b) MS. L. Talukdar
- c) Ms. P. Deb

11) PARTICULARS OF THE I.P.O. -

- i. I.P.O. No. 269 326036
- ii. Date of issue - 23/8/06.
- iii. Issued from - G.P.O. Guwahati.
- iv. Payable at - G.P.O. Guwahati.

12) DETAILS OF ENCLOSURES -

As stated in the INDEX.

VERIFICATION

I, Srimati. Sabita Das (Choudhury), W/o. Late. Samiran Das, aged about 40 years, Resident of Urmila Bhawan, Jail Road, Shillong, Meghalaya, do hereby verify the statements made in Para - 1 to 4 and 6 to 12 are true to my knowledge and those made in Para - 5 are true to my legal advice and I have not suppressed any material facts.

And, I set my hand on this verification today the 21st day of ^{Nov}~~August~~ 2006 at Guwahati.

Sabita Das (Choudhury)

Signature

Contd...

To

The Accountant General (A&E), Assam,
Guwahati.

Sub:- Prayer submitted by Smti. Sabita Das.

Sir,

I beg to lay the following few lines for favour of your consideration and favourable orders-

- (1) That Sir, my husband, Shri Samiran Das, a clerk of your office is absconding from home since September, 1997.
- (2) That Sir, prior to his being absconded he made me out of home by making physical torture and the matter was duly reported to police.
- (3) That Sir, for his being absconded, I have no other alternative but to take shelter in my brothers' house as unwelcome guest for my survival.

Sir, under the circumstances I beg most fervantly to your benign self for causing doing the needful, considering my pitiable condition, so that I may survive with dignity.

Dated Shillong
the 31st March, 1998.

Yours faithfully,

Sabita Das

(Sabita Das)

C/o. Shri Subhro Choudhury
Urmila Bhavan, Jail Road,
Shillong-1.

££££

*Certified to be true
P. Dev
Advocate*

*Recd by
Mridul Das
8/4/2008/contd. cell*

Regd. with AD, Amraol

No-DAG(A)/Admn-I/PC/SD/93/66

Date-6-7-98

08 JUL 1998

With reference to her representation dt. 31-3-98, Smti Sabita Das, W/O Shri Samiran Das, C/T stated that the case of absconding of her husband from home was reported to the police.

Now, she is hereby asked to furnish the following details urgently for taking necessary action at this end :-

1. The date on which the F.I.R. was lodged.
2. Nature of complaint lodged ~~and~~ and
3. Progress report on action initiated by the police etc.

X. Siddhartha Singh
Dy. Accountant General (A).
6/7/98

Smti Sabita Das,
C/O. Shri Subhro Choudhury,
Dr. S.K. Choudhury,
Urmila Bhavan, Jail Road,
Shillong-1, Meghalaya.

Certified to be true copy
H. Dev
Advocate

o/c - 14 -

Annexure No-3

24

To

The Deputy Accountant General (Admn),
Office of the A.G.(A&E), Assam,
Maidangaon, Beltola,
Guwahati-28.

Sir,

With reference to your office letter No.DAG(A)/Admn-I/PC/SD/93/96 dt. 8-7-98 (delivered on 3-8-98), I beg to furnish the following information as called for.

1. The F.I.R. was lodged on 10-09-97.
2. The F.I.R. was lodged with the All Women Police Station, Panbazar, Guwahati, to the effect that my husband, Shri Samiran Das, C/T of the Office of the A.G.(A&E), Assam, Guwahati, demanded dowry of Rs. 20,000.00 which could not be paid by my brother and my husband took away all the ornaments given by my brother at the time of my marriage and made me out of home by making physical torture.

When the F.I.R. was lodged, the Police initiated enquiry in that regard and searched the residence of my husband at Beltola on 10-09-97 but could not trace him there and we were told that he was absconding.

Subsequently on 11-09-97 I was produced in the Session Court, Guwa-hati, where a requisite statement was recorded, a photo copy of which is enclosed for favour of your kind perusal.

3. No further progress report of investigation has been intimated to me.

Dated-Shillong
The 6th August, 98.

Yours faithfully

Sabita Das
Mrs. Sabita Das
(Choudhury)

Certified to be true copy
H. Das
Advocate

Received
M

c/r

Annexure NO - 25

From Mrs. Sabita Das.
W/o Shri Samiran Das.
C/o. Dr. S.K. Choudhury.
Urmila Bhavan, Jail Road.
Shillong-1.

Dated Shillong the 14.7.99.

To

The Deputy Accountant General(A).
Office of the Accountant General(A&E).
Assam, Guwahati-29.

Ref:- Letter No. DAG(A) Admn-I/PC/SD/93/195, dated 23-3-99.

Sir,

I have the honour to file herewith a copy of the police report of the case pertaining to the disappearance of my husband, in response to your letter under reference, for your kind information and necessary action.

May I also express here my hope that now my case will be settled expeditiously, and, as a special case, I shall be given a suitable appointment on compassionate ground.

With regards.

Yours faithfully,

Sabita Das

(Mrs. Sabita Das).

certified to be true copy
H. Dev
Admn

Recd

Annexure No-5

**OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM,
MAIDAMGAON, BELTOLA, GUWAHATI - 781 029.**

NO. DAG(A)/PC/SD/93/01

7 April 2000

10 APR 2000

TO

Smt. Sabita Das
W/o Shri Samiran Das
C/o Dr. S.K. Choudhury
Urmila Bhavan, Jail Road
SHILLONG 793 001

In response to this office letter No. DAG(A)/PC/SD/93/94 dated 27.1.2000 the officer-in-charge All Women Police Station, Panbazar, Guwahati City informed that her husband Shri Samiran Das could not be traced. After completion of the investigation of C.S No. 24/97 dated 11.12.97, was submitted showing him ABSCONDER.

Now, the undersigned hereby asks the wife of Sri Samiran Das, whether there is any news on their side which may be informed to this office for taking necessary action at this end.

An early reply is requested.

X. Siddhartha Singh
Deputy Accountant General (Admin)

Certified to be true copy

*H. Dev
H. Dev*

Annexure NO-6

2x

From -
Smti Sabita Das (Choudhury),
W/o Shri Samiran Das,
C/o Dr. S.K. Choudhury,
Urmila Bhavan,
Jail Road,
Shillong - 793 001.

DATED: - 5/9/2000

To

The Accountant General (A&E),
Assam, Beltola,
Guwahati.

Subject: - Disappearance of Shri Samiran Das and appointment of his wife on
Compassionate grounds.

Honourable Sir,

In continuation of my representation dated 26/04/2000 submitted as a sequel to your office letter bearing number DAG(A)/PC/SD/93/01 dated 01/04/2000 I am to submit the following few lines for your kind and sympathetic consideration.

That Sir, with the disappearance of my husband in 1997 I have nothing to fall back upon for my sustenance. Moreover, I have also not been granted retirement gratuity and family pension.

That Sir, I am presently staying with my brother who himself is privately employed and with his meagre income it has become very difficult for him to maintain me.

In view of the position stated above I shall be grateful if your kindly look into the matter personally and arrange to appoint me on Compassionate ground to tide over the financial distress faced by me.

I shall remain ever grateful for your this act of kindness.

Yours faithfully,

Sabita Choudhury
Sabita (Das)
(Choudhury)

Certified to be true copy
M. Dev
Advocate

5/11/00



सत्यमेव जयते

- 18 -
Regd

Amesur-7

महालेखाकार(ले एवं ह)असम का कार्यालय,
Office Of The Accountant General (A & E)
Assam,
मैदामगांव, बेलतोला, गुवाहाटी - 781 029
Maidamgaon, Beltola, Guwahati - 781 029

NO:DAG(A)/Admn-1/PC/SD/93/75
Dated Guwahati the 25th August, 2004.

26 AUG 2004

To
Smti. Sabita Das,
W/o Shri Samiran Das, C/T,
C/o Shri Subhro Choudhury
Urmila Bhavan, Jail Road,
Shillong : 793 001.
Meghalaya.

Smti Sabita Das, W/o Shri Samiran Das, C/T is hereby asked to obtain a report from the concerned Police Station that her husband Shri Samiran Das is missing or has not been traced after all efforts had been made by the Police.

This information is urgently required to enable this office to settle the case.

Kaly
Deputy Accountant General (A)

Certified to be true copy
M. Das
Asst. Secy

Officer-In-Charge
All Women Police Station,
Panbazar, Guwahati

TO WHOM IT MAY CONCERN

This is to certify that Sri Samiran Das, son of Late Rabindra Nath Das, husband of Smti Sabita Das (Choudhury) is involved in All Women P.S. Case No. 29/97 (G.R. Case No. 3766/97) U/S 498A IPC. His whereabouts is not known since 10.9.97 and could not be traced out. As such the aforesaid case has been chargesheeted on 11.12.97 against Samiran Das showing him absconder.

Sd/-

R. K. Das
Officer-In-Charge
All Women P.S.
City : Ghty.

*Certified to be the copy
H. Das
Advocate*

To
The Deputy Accountant General (Admn.),
Office of the Accountant General (A&E),
Assam, Maidamgaon,
Beltola, Guwahati - 29

Sir,

In inviting a reference to your letter No. DAG(A)/Admn-I/PC/SD/93/75 dated 26.08.2004 regarding submission of a report from the Police Station where the F.I.R. was lodged in connection with the disappearance of Shri Samiran Das, C/T, I am to enclose herewith an attested copy of the police report as called for by you.

Further, I would like to draw your kind attention to Swamy's Handbook 2004 regarding compassionate appointment of dependants of the missing employees subject to the conditions outlined therein.

That Sir, my case for compassionate appointment has not yet been considered in spite of my living on dire financial stress.

I would, therefore, request your kindness to give me an appointment on compassionate ground to save me from utter ruins and also to grant me pensionary benefits due and admissible to me.

Yours faithfully,

Dated, Shillong the 6th December, 2004

My present address:-
Sabita Das (Choudhury),
C/o - Narendra Chandra Dhar,
(Subhra Choudhury),
Jail Road (Near Promodini Complex),
Shillong - 793 001

sabita Das (Choudhury)
6/12/2004
SABITA DAS (CHOUDHURY)

certified to be her copy
Dr. Dev
Advocate

6/12/04

'dismissal from service' shall ordinarily be a disqualification for such employment.—*Rule 11, CCS (CCA) Rules.*

Forfeiture of past service.—A Government servant removed or dismissed from service shall forfeit his past service and shall not be entitled to pension/gratuity.

Compassionate allowance.—If the case of the Government servant who is removed or dismissed from service is deserving of special consideration, the authority competent to remove or dismiss him from service may sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension. The compassionate allowance sanctioned shall not be less than Rs. 1,275 per month.—*Rules 24 & 41, CCS (Pension) Rules.*

5. Absorption in ABs/PSUs, etc.

[Swamy's—Pension Compilation]

Central Government employees are often sent on deputation in public interest to Central Public Sector Undertakings/Autonomous Bodies or go on their own volition applying in response to advertisements and get permanently absorbed there. Orders of permanent absorption have to be issued by the undertaking in consultation with the parent employer. Retrospective absorption is not permissible. Nationalized Banks, Reserve Bank of India, State Bank of India and its subsidiary banks, LIC, GIC of India and its four subsidiaries viz., National Insurance Company Ltd., New India Assurance Company Ltd., Oriental Insurance Company Ltd., and United India Insurance Company Ltd., are treated as 'Central Autonomous Bodies'.

1. Deemed Retirement/Resignation.—Such an employee is deemed to have retired/resigned from service from the date of such absorption. For service in the Government they would be eligible for the appropriate Service Gratuity/Pension and Retirement Gratuity or terminal benefits admissible under relevant rules.

2. Retirement benefits.—Pro rata monthly pension and retirement gratuity on the basis of qualifying service up to the date of permanent absorption will be admissible.

3. Commutation of pension.—Is entitled to commutation not exceeding 40% of his pension without medical examination if application is made within one year from the date of permanent absorption. The commutation amount is exempt from income tax.

4. Encashment of 'Earned Leave'.—The Government servant is entitled to encashment of earned leave to his credit on the date of such absorption subject to a maximum of 300 days including the number of days for which encashment was availed along with LTC.

5. Half Pay Leave.—Half pay leave will stand forfeited.

6. Transfer of PF Balances.—In respect of an employee opting for service with any of the bodies mentioned above the amount of subscription (including Government contribution in case he is a subscriber to CPF) together with interest thereon standing to his credit in the PF account will be disposed of in the following manner:—

Refunded to him	...	If the enterprise does not operate a PF or the PF of the enterprise does not accept such balances.
Transferred to the new PF Account.		If the enterprise agrees for the transfer of the balance.

7. Family Pension.—On permanent absorption (except of those with less than ten years' qualifying service), benefit of family pension under CCS (Pension) Rules is admissible, if no family pension scheme exists in the organization or if the employee is not eligible under their Scheme or on his request if he is specifically exempted by the Central Provident Fund Commissioner from the coverage of family pension scheme of the organization. The family pension will be based on the pay drawn at the time of absorption.

8. Miscellaneous.—(1) Pro rata retirement benefits are applicable on permanent absorption in Public Sector Undertakings/Autonomous Bodies also under 'State Governments' and 'Union Territories' control.—See Subject No. 8.

(2) In respect of Joint Sector Undertakings, these benefits are also admissible on absorption if it is wholly under the joint control of Central Government and State Government(s)/Union Territory or under the joint control of two or more State Governments/Union Territories and not under one Government and a private/foreign body.—*Appendix-12.*

6. Missing employees

[Swamy's — Pension Compilation and Group Insurance Schemes]

If an employee is missing and his whereabouts are not known, his family can be paid the retirement benefits. For this purpose, the family should have lodged a complaint with the Police Station concerned and obtained a report that the employee has not been traced after all efforts had been made.

1. Benefits payable in the first instance.—Salary due, leave encashment due and the amount of GPF.

2. After one year—(i) Death gratuity limited to the amount of Retirement gratuity; (ii) Family Pension at normal rate from the date of

Confirmed to be
H. Swamy
Advocate

FIR; and (iii) Accumulations from the Savings Fund under Group Insurance Scheme.

The nominees/dependants should furnish an Indemnity Bond that all payments shall be adjusted against the payment due to the employee in case he/she appears on the scene at a later date and makes a claim.

3. After death is established or seven years.—(i) Difference between death gratuity and retirement gratuity (ii) Insurance cover admissible under Group Insurance Scheme. (iii) Difference in family pension between normal and enhanced rates.

The claimants should produce proper and indisputable proof of death or Decree of the Court that the employee concerned should be presumed to be dead as laid down in Section 108 of the Indian Evidence Act.

Subscriptions for one year and insurance premium alone for the next six years will be recovered with interest from the amounts payable on account of Savings Fund and Insurance Fund respectively under Group Insurance Scheme.

4. When missing after committing fraud.—Benefits can be sanctioned only on the employee being acquitted by the Court or after conclusion of disciplinary proceedings.

5. Applicable to pensioners.—Family pension can be sanctioned as per conditions stated above in the case of missing pensioner also.—GID (12), Rule 54—Pension Rules, Pcras.11.4 and 11.5 Group Insurance Scheme.

7. Permanent transfer to and from Central Autonomous/ Statutory Bodies — Counting of past service for pension

[Swamy's — Pension Compilation]

1. Scope.—This subject deals with the benefit of counting past service for retirement benefits in the case of employees (permanent or temporary) of the following categories initially going on deputation and then getting permanently absorbed—

- (1) From a Central Government Department to a Central Autonomous Body.
- (2) From a Central Autonomous Body to a Central Government Department.
- (3) From one Central Autonomous Body to another.

2. "Central Autonomous Body" means a body which is financed wholly or substantially from cess or Central Government Grants. "Substantially" means that more than 50 per cent of the expenditure of the Autonomous Body is met through cess or Central Government Grants. It includes a Central Statutory Body or a Central University.

However, Public Undertakings, Nationalized Banks, RBI, SBI and its subsidiary banks, LIC, General Insurance Corporation of India and its four subsidiaries are not treated as "Central Autonomous Bodies" for this purpose.

3. From a Central Government Department to a Central Autonomous Body where pension scheme is in operation.—The Government servant will have an option (a) to receive pro rata retirement benefits or (b) continue to have the benefit of combined service under the Government and in the Autonomous Body. The option should be exercised within six months. If he elects the alternative (b), the service rendered under Government will be allowed to be counted towards pension under the Autonomous Body. In the case of temporary Government servant, pensionary benefits will accrue only when he is confirmed in the Autonomous Body. If he retires as a temporary employee from the Autonomous Body, terminal benefits as are available under the Government will only be admissible to him.

From a Central Autonomous Body to a Central Government Department.—The above procedure will apply.

The Government/Autonomous Body will discharge its pension liability by paying in lumpsum the pro rata pension/service gratuity/terminal gratuity and retirement gratuity for the service up to the date of absorption. Lumpsum amount of pro rata pension will be determined with reference to Commutation table laid down in CCS (Commutation of Pension) Rules.

A Central Government employee with Contributory Provident Fund benefits on permanent absorption in an Autonomous Body will have the option either to receive the CPF benefits which have accrued to him from the Government and start his service afresh in that body or count service rendered in Government as qualifying service for pension in the body by forgoing Government's share of CPF Contributions with interest, which will be paid by the Government to the body concerned. The option should be exercised within one year from the date of absorption, failing which he will be deemed to have opted to receive the CPF benefits.

4. From a Central Government Department to a Central Autonomous Body where pension scheme is not in operation.—A permanent Central Government employee borne on pensionable establishment on absorption in the Central Autonomous Body will be eligible for pro rata retirement benefits as given in Subject No. 6. A temporary employee will be paid the terminal gratuity admissible on the date of permanent absorption in the Autonomous Body. In the case of temporary Central Government employee with CPF benefits, the amount of his subscriptions and the Government's contribution together with interest thereon will be transferred to his new Provident Fund account with the consent of that body.

3. Recruitment procedure.—Vacancies will be notified to the DG (R) and the Rajya and Zilla Sainik Boards, as also to Ex-Servicemen Cell. Along with the application, the applicant has to submit an undertaking in the prescribed format that he had been duly released/retired/discharged from the Army Forces.

4. Placement in the Roster.—An Ex-Serviceman selected for appointment should be placed against the category to which he belongs. For example, if he belongs to SC he should be placed against the point for SC.

5. Reservation benefit only in the first civil employment.—Once an Ex-Serviceman is appointed to a civil post against a reserved vacancy, he ceases to be an Ex-Serviceman, and hence not entitled to the benefit of reservation for other posts subsequently. However, the benefit of age relaxation as prescribed for Ex-Servicemen is admissible to such re-employed persons for securing another employment in a higher grade or cadre in Groups 'C' and 'D'.

6. Relaxations and concessions.—

(i) *Age.*—(a) Three years over and above the period of service rendered in the Army, Navy and Air Force. Disabled Defence Service personnel eligible for appointment to Group 'C' posts filled through competition examination will be allowed 3 years' age relaxation (8 years in the case of SC/ST). For Group 'C'/'D' posts filled through Employment Exchange for such disabled personnel, the minimum age-limit is raised to 45 years (50 years in the case of SC/ST).

(b) For Group 'A'/'B' posts filled by direct recruitment by UPSC on All India Competitive Examination, five years relaxation is admissible for Ex-Servicemen and Commissioned Officers including ECOs/SSCOs with 5 years' military service released on completion of assignment, on invalidment and due to physical disability attributable to military service.

(ii) *Educational Qualifications.*—Ex-Servicemen with not less than three years' service in the Armed Forces is exempted from possession of the prescribed educational qualifications for Group 'D' posts. For Group 'C', minimum educational qualification may be relaxed at the discretion of the appointing authority, if such minimum qualification is Middle School Standard and the Ex-Servicemen has put in at least three years' service in the Army and is otherwise found suitable. A matriculate Ex-Serviceman with 15 years' service in the Armed Forces will be considered eligible for posts for which graduation is prescribed, if work experience of technical or professional nature is not essential or if the appointing authority is satisfied that the Ex-Servicemen will perform the duties by undergoing on-the-job training for a short duration.

Relaxation of educational qualification as above applies for promotion also.

(iii) *General standard for selection.*—Required standard may be relaxed, if persons for all the vacancies are not available and if such relaxation will not affect the performance by such candidate.

(iv) *Application/examination fee.*—Exempted for examinations conducted by UPSC/SSC and the Institute of Secretariat Training and Management for filling the vacancies reserved for them in various Group 'C' posts.

(v) *Special Concessions for Disabled Ex-Servicemen.*—If the disability is attributed to military service, he will be accorded Priority-I along with a retrenched employee for appointment to Groups 'C' and 'D' posts filled by direct recruitment. Up to two members, each of the families of defence service personnel (widow, son/daughter/near relative who agree to support the family) will be granted priority immediately after the disabled Ex-Servicemen, i.e., Priority II-A. Medical Certificate of Fitness granted by a Demobilization Medical Board of the Defence Services would be considered adequate for appointment to all posts.

(vi) *T.A. to handicapped Ex-military personnel called for interview.*—The concessions regarding grant of T.A. to SC/ST called for interview are also extended on the same scale. Procedure for drawal and payment will also be the same.—[G/Os below SR 132].

7. Liaison Officers.—Officer appointed to look after the reservation matters of SC/ST would also be the L.O. for reservation matters relating to Ex-Servicemen and physically handicapped.—OM, dated 10-11-1994.

7. Compassionate Appointments of Dependants

[Swamy's — Pension Compilation]

Applicable to a dependent family member of.—

- (a) a Government servant who dies in service (including death by suicide);
- (b) is retired on medical grounds before attaining the age of 55 years (57 years in the case of Group 'D' officials);
- (c) a member of the Armed Forces who—
 - (i) dies in service; or (ii) killed in action; or (iii) is medically boarded out and unfit for civil employment.

Service includes extension in service (but not re-employment). Service includes re-employment of Ex-Servicemen in civil post before the normal age of retirement.

Dependent family member means (a) spouse; (b) son/daughter (including adopted son/adopted daughter) and (c) brother or sister in the case of unmarried Government servant/member of the Armed Forces at the time of his death in harness/retirement on medical grounds, as the case may be.

✓ *In the case of a missing employee.*—Compassionate appointment can be considered after two years from the date of missing—

- (a) if FIR has been filed and the missing official is not traceable;
- (b) if he had at least two years to retire;
- (c) if he is not suspected to have committed fraud/joined terrorist organization/gone abroad;
- (d) if the Competent Authority feels that the case is genuine; and
- (e) decision is to be taken at the level of Secretary.

Concession of compassionate appointment is admissible to one dependant only.

EXCEPTIONS.—(1) In exceptional circumstances, with the prior approval of the Secretary of the Ministry/Department concerned, the appointment on compassionate grounds may be considered even when there is an earning member in the family of the deceased.

(2) If the deceased was unmarried, one of the dependent brothers/ sisters will be eligible for consideration, on giving an undertaking that he/she will look after the other family members who were dependent on the deceased Government servant.

2. Posts to which appointment made.— Only in Group 'D' and Group 'C' posts.

3. Appointing Authority.—

Ministry/Department	...	Joint Secretary in-charge of the Administration or Secretary.
Attached and Subordinate Offices	...	Heads of the Departments under SR 2 (10).
Department of Telecommunications]	Respective Circle Selection Committee.
Department of Posts		

4. Conditions.—

- (i) Compassionate appointment can be made only against the direct recruitment quota and
- (ii) Applicants should fulfil all eligibility conditions in Recruitment Rules.

5. Relaxations.—

(i) **Age.**—Maximum age-limit may be relaxed wherever necessary, but no relaxation is permissible in the minimum limit of 18 years. If the ward is below 18 years of age at the time of death of the Government servant and if he alone is available for employment, he should apply as soon as he attains 18 years.

(ii) **Qualifications.**— For Group 'D' post and LDC, qualifications may be temporarily relaxed by the Departments, subject to the condition that such relaxation will be permitted up to two years only. The appointee should get

qualified within this period as otherwise his services are liable to be terminated.

Widow appointed to a Group 'D' post will be exempted from the prescribed educational qualifications, if the duties can be performed satisfactorily.

(iii) **Procedure.**— Conditions in the recruitment procedure, viz., clearance from Surplus' Cell, recruitment through SSC, Employment Exchange, etc., will be relaxed. Compassionate appointments are exempted from ban orders on filling up of vacant posts.

6. Limitations.— Compassionate appointments can be made only up to 5% of direct recruitment vacancies. No compassionate appointment can be made if there is no vacancy.

7. Reservations.— Person selected for compassionate appointment to be adjusted in the recruitment roster against the appropriate category, i.e., SC/ST/OBC/General category, depending upon the category to which he belongs.

8. Procedure for appointment.— Heads of Offices will make the proposal and the Head of Department/Ministry will decide the appointment. Proposal will be made in the prescribed form containing all particulars of the candidate and the specific relaxation required in age, qualifications, etc. The Head of Department/Ministry will take into account all the circumstances of the family, the benefits such as CGEIS payments, GPF/CPF, gratuity, etc., received, the existence of any earning member in the family on the one hand and on the other, size of the family, ages of children, essential needs, liabilities and the financial condition of the family. Financial benefits received need not necessarily be a ground for rejecting the proposal *vis-a-vis* other adverse factors urging acceptance.

9. Other Provisions.—

(i) **Widow in appointment after re-marriage.**— There is no bar against a widow appointed on compassionate grounds continuing in the appointment after re-marriage.

(ii) **Dependant of Group 'D' deceased considered for Group 'C' also.**— The appointment of the family member of a deceased Group 'D' employee need not be restricted to a Group 'D' post. Such a member, if qualified can be appointed to a Group 'C' post also.

(iii) **No consideration for change in post.**— Once the compassionate appointment is made, request for a change in the post, on compassionate grounds will not be entertained. The appointee will be treated like his colleagues for career advancement in the normal course.— *Appx. 2.*

(iv) **No consideration if compassionate appointment not provided within three years.**— If compassionate appointment to genuine and deserving cases is not possible in the first year due to non-availability of regular vacancy, the