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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 24)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application No. 280/2006  
 2. Misc Petition No. /  
 3. Contempt Petition No. /  
 4. Review Application No. /

Applicant(s) Shri Pankaj Dey

Respondent(s) Union of India 2006

Advocate for the Applicant(s) Mr. Adil Ahmed, Smti. S. Bhattacharjee

Advocate for the Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
	10.11.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.
This application is an form is filed/C. F. for Rs. 10/- deposited vide J.P.C. BD No. <u>269 326019</u>		The claim of the Applicant is for compassionate appointment. Earlier, the Applicant approached this Tribunal in O.A. No. 129 of 2006 and this Tribunal vide order dated 02.06.2006 disposed of the O.A. with the following directions :
Dated..... <u>21-08-2006</u>		"Considering the entire facts of the case this Tribunal is of the view that justice will be met if a direction is given to 2nd respondent to consider the case of the applicant afresh. Accordingly, I direct the said respondent to consider the applicant's case afresh for compassionate appointment with due application of mind and as per rules, regulations governing the subject and pass appropriate order communicating the same to the applicant within three months from the date of receipt of this order. It is made clear that if the applicant intends to file comprehensive representation, he is at liberty to do so."
<i>dkm</i> Dy. Registrar	<i>at 9.11.06.</i>	

Contd/-

Contd/-

10.11.2006 Thereafter, the Applicant submitted representation and vide order dated 24.07.2006 the respondents rejected the claim of the Applicant for the reason that the Applicant filed the representation at belated stage since as per the DOPT circular after five years the application for compassionate appointment cannot entertain. The contention of the applicant is that the applicant was minor and her step/mother also made application, which was subsequently revoked and made a request to the Respondents that if the applicant is appointed in place of her, she has no objection. Though compassionate appointment committee mentioned in the case of his step mother Smt. Rakhi Rani Dey, wife of late S.R. Dey, it is absent in the case of the Applicant and the case of the Applicant was rejected.

Notice & order  
Sent to D/Section  
for issuing to  
resp. nos. 1, 2 & 3  
by regd. A/D post.

D/No-1181-1183  
20/11/06. DT 29/11/06.

① Service report  
awarded.

3  
17.1.07.

Heard Mr. A. Ahmed, learned Counsel for the Applicant and Ms U. Das, learned Addl. C.G.S.C. for the Respondents. Ms Das, learned Addl. C.G.S.C. for the respondents wanted to take instructions.

Issue notice to the Respondents.

Post on 02.01.2007.

① Service report awarded.

Vice-Chairman

② No W.L.S has been filed.

/mb/

25  
1.2.07.

18.1.2007

Four weeks time is sought by Ms. U. Das, learned Addl. C.G.S.C. on behalf of the Respondents to file reply statement. Granted and let it be done.

Post the case on 20.02.2007.

Vice-Chairman

O.A. 280 06

2.3.07.

Four weeks time is granted to the counsel for the respondents to file written statement. Post the matter on 2.4.07.

ce

Member

Vice-Chairman

lm

27.3.07.30.3.07

w/s not yet  
filed The Rejoinder

dt

2.4.2007

Applicant side wanted time to file rejoinder to the rep. v statement filed by the respondents. Let it be done within four weeks post on 4.5.2007.

Vice-Chairman

bb

4.5.07.

Further time is granted to file rejoinder. Post the matter on 6.6.07.

Vice-Chairman

lm

No rejoinder has  
been filed.

3.6.07.

06.06.07. Rejoinder has not been filed. Counsel for the parties has submitted that case may be posted for hearing. Post the matter for hearing on 3.7.07.

Vice-Chairman

lm

No rejoinder has  
been filed.

15.6.07.

Rejoinder not filed

3.7.2007

Ms. U. Das, learned Addl. C.G.S.C. is indisposed of. Post on 18.7.2007.

Vice-Chairman

/bb/

OA 280/06

9/

18.7.2007

List the case on 20.07.2007.

Vice-Chairman

/bb/

Rejoinder not  
filed.

20.7.2007

Post the case on 30.7.2007 for  
hearing.

2006  
27.7.07

/bb/

Vice-Chairman

30.7.07.

Post the matter on 1.8.07..

Vice-Chairman

Rejoinder not filed.

lm

2006  
17.8.07

1.8.07 Let this case be also taken along with other  
compassionate appointment cases and which will  
be tagged together for a common hearing.

Rejoinder not  
filed.

Vice-Chairman

pg

2006  
10.9.07

20.8.2007

Post the matter on 11.9.2007.

Vice-Chairman

/bb/

11.9.07.

Post the matter on 12.9.07.

Vice-Chairman

lm

12.9.07. Let the case be listed on 14.9.07.

lm

Vice-Chairman

WLS ~~bilked~~ bilked.

3/10/07

14.9.07 Let the case be posted on 4.10.07  
for order.

WLS

Vice-Chairman

pg

04.10.07.

None appears for the applicant nor is the applicant present. However, Ms.Usha Das, learned Standing Counsel for the Central Government is present.

In this case with prayer for employment on compassionate ground, reply has already been filed by the Respondents.

Call this matter on 29.11.07 for final hearing. Subject to legal pleas, this case to be examined in the final hearing, this case is admitted.

Khushiram

(Khushiram)

Member(A)

Monoranjan Mahanty

(Monoranjan Mahanty)

Vice-Chairman

lm

29.11.2007 No one for the Applicant is present.

No rejoinder has been filed by the Applicant.

Call this matter on 04.01.2008 for hearing.

Khushiram

(Khushiram)  
Member (A)

/bb/

04.01.2008 Heard Mr A. Ahmed, learned Counsel appearing for the Applicant and Ms U. Das, learned Addl. Standing Counsel for the Union of India.

For the reasons recorded separately, this case is dismissed.

Received  
Usha Das.  
Addl. CusC  
29/1/2008

nkm

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

12.2.08

Copy of the letter  
sent to the Office  
for occupying the place  
to the ~~Adv.~~ parties  
alongwith a copy  
to the L/Adv. for  
the applicant.

dk

22.1.09

Recd via D/WP  
1077 to 1080 std.  
12.2.08.

dk

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

09

Original Application No. 280/2006

DATE OF DECISION : 04-01-2008

**Shri Pulak Dey**

.....Applicant/s

**Mr A. Ahmed**

.....Advocate for the  
Applicant/s

-Versus -

**Union of India & Ors.**

.....Respondent/s

**Miss U. Das, Addl.C.G.S.C.**

.....Advocate for the  
Respondent/s

**CORAM**

**THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN**

**THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER**

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.

Vice-Chairman/Mamber(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.280 of 2006.

Date of Order : This the 4th Day of January, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Pulak Dey  
Son of Late Santi Ranjan Dey,  
Asha Niketan, Near N.B. Pathshala,  
P.O. Golakganj, District Dhubri,  
Pin 783334, Assam ...Applicant

By Advocate Mr A. Ahmed.

•Versus•

1. The Secretary to the Govt. of India,  
Ministry of Home Affairs,  
North Block, New Delhi 110001.
2. The Director,  
Intelligence Bureau,  
Ministry of Home Affairs,  
35 SP Marg, New Delhi.
3. The Assistant Director (A)  
Subsidiary Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
Basistha Road, Beltola,  
Guwahati -28. ....Respondents

By Miss U. Das, Addl.C.G.S.C.

ORDER (ORAL)

KHUSHIRAM, (MEMBER-A)

Shri Santi Ranjan Dey; while working with I.B died in harness, on 21.10.1999. Being minor, at the time of death of his father, the applicant has approached the Respondents, after passing in the B.A examination, for his appointment on compassionate ground, on



09.07.2002 and again on 03.06.2004. Subsequently, he was asked to produce no objection certificate from his step mother; which was complied with. Applicant's said claim was rejected on 22.11.2005. Aggrieved by the said rejection, he approached this Tribunal ~~with the~~ earlier O.A.129/2006; which was disposed of by giving direction (by an order dated 02.06.2006) to the 2<sup>nd</sup> Respondent to consider the case of the Applicant afresh for compassionate appointment. Armed with the said order of the Tribunal, the Applicant approached the Respondents again and his case was rejected by passing of a speaking order. The claim of the Applicant was rejected due to "non availability of Group 'D' post under compassionate appointment quota." The present Original Application has been filed challenging this decision of the Respondents.

2. The Respondents have filed written statement; in which they have disclosed that the Applicant is employed in a private firm at Barpeta at monthly salary of Rs.1500/-; that he is in possession of Kisan Vikas Patra of Rs.1,00,000/-; that he is also having a two room house in a plot of land measuring half katha at Golakganj District Dhubri, Assam; that the economic condition of the Applicant are not destitute in the absolute terms; that the Respondents have considered the case of the Applicant on three occasions (i.e. First, the case was processed in the name of his step mother, 2<sup>nd</sup> time in the name of the Applicant and 3<sup>rd</sup> time on the direction from the Tribunal) and that since there was no vacancy/recruitment in Group 'D' post, the Applicant's case could not be considered.

*[Handwritten signature/initials over the text]*

3. We have heard the counsel appearing for both the parties; considered the rival contentions of the Applicant and of the Respondents and have gone through the materials placed before us. The Respondents have passed a speaking order, on 24.07.2006, making it clear that the cases relating to compassionate appointment could be kept pending for maximum 3 years subject to the condition that prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and second year and that after three years, if compassionate appointment is not possible to be offered to the Applicant, his case has to be finally closed and cannot be considered again. The Respondents have tried their best to consider the case of the Applicant in the light of the policy and instructions of Government of India in the matter but found no scope to help the Applicant. In that view of the matter, the Original Application is without any merit and accordingly, the same is hereby dismissed without any order as to costs.

*Khushiram*  
(KHUSHIRAM)  
ADMINISTRATIVE MEMBER

*Manoranj*  
84/01/08  
(MANORANJAN MOHANTY)  
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE  
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 280 OF 2006.

Sri Pulak Dey

...Applicant

- Versus -

The Union of India & Others

...Respondents

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Date: 9 - 11 - 2006.

Filed By:

Smita Bhattacharjee  
Advocate

*Smita Bhattacharjee*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. २८० OF 2006.

Sri Pulak Dey  
... Applicant

- Versus -

The Union of India & Others  
... Respondents

**LIST OF DATES AND SYNOPSIS:**

19.07.1991      Mother of the Applicant died when he was of 13 years old.

April 1992      Applicant father married one Smti Rekha Rani Dey.

21.10.1999      Death of Applicant's father Late Santi Ranjan Dey, who had served under the Office of the Respondent No.3 as Assistant Control Intelligence Officer Grade (II).

1998      Applicant passed B.A. Final Examination under Gauhati University and also obtained diploma in English & Assamese Type writing.

09.07.2002      Applicant submitted representation informing all the family matters to the Respondent No.3 and also prayed before him to consider his appointment on compassionate appointment.

03.06.2004      Respondent No.3 advised the Applicant to apply in proper prescribed format for grant of compassionate appointment.

14.06.2004      Applicant submitted all the documents before the Respondents for grant of compassionate appointment.

28.10.2004      Respondent No.3 directed the applicant to submit documentary proof of second marriage of his step mother and if not possible the applicant was directed to submit a written declaration from his step mother that she is not willing to be considered for compassionate appointment and she has no objection if her son i.e. the applicant is considered for compassionate appointment.

09.02.2005      Applicant submitted the declaration certificate of his step mother that she is not willing to be considered for the

compassionate appointment and she has no objection if her son is considered for the appointment.

27.06.2005      Applicant had sent remainder to the Respondents regarding taking action of his earlier representations.

22.11.2005      The Respondents rejected the claim of the applicant for compassionate appointment.

02.06.2006      The Hon'ble Tribunal vide its order in O.A.No.129 of 2006 directed the Respondents to consider the case of the Applicant for compassionate ground appointment in fresh.

24.07.2006      The Respondents rejected the Representation of the Applicant in a arbitrary and mechanical manner.

Hence this Original Application for seeking justice in this matter.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 280 OF 2006.

16

BETWEEN

Sri Pulak Dey  
Son of Late Santi Ranjan Dey  
Asha Niketan, Near N.B. Pathshala  
P.O.- Golakgan, District - Dhubri  
PIN - 783334, Assam.

...APPLICANT

- AND -

1. The Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi 110 001.
2. The Director, Intelligence Bureau, Ministry of Home Affairs, 35 SP Marg, New Delhi.
3. The Assistant Director,(A) Subsidiary Intelligence Bureau, Ministry of Home Affairs Government of India, Basistha Road, Beltola, Guwahati - 28

...RESPONDENTS

DETAILS OF THE APPLICATION

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

The Application is made against the Impugned Order No.64/Estt (G-1) / 1999 (71)-CG 6462-64 dated 24<sup>th</sup> July 2006 issued by the Office of the Respondent No.2.

FILED BY  
Sri Pulak Dey  
Applicant  
Through - Smita Bhattacharjee  
(Advocate)

**2. JURISDICTION OF THE TRIBUNAL:**

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

**3. LIMITATION:**

The Applicant further declares that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act 1985.

**4. FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1 That your humble Applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India. He is aged about 29 years.

4.2 That your Applicant begs to state that he is the only son of Late Santi Ranjan Dey, who had served under the office of the Respondent No. 3 as an Assistant Controls Intelligence Officer, Grade II (G). The father of the applicant expired on 21.10.1999, while he was serving under the Office of the Respondent No. 3. It is to be stated that mother of the applicant died on 19.07.1991 when the applicant was 13 years. Thereafter, his father late Santi Ranjan Dey again married one Sri Rakhi Rani Dey on April 1992. Unfortunately, the relationship between the step mother and his father was not peaceful and cordial. Ultimately, after death of the applicant's father, i.e. Late Santi Ranjan Dey, the step mother of the applicant remarried one Mr Dhiren Rajbongshi, a resident of Bamunigaon in the district of Kamrup, Assam.

ANNEXURE – A is the death certificate of late Santi Ranjan Dey.



4.3 That your applicant begs to state that he has passed B.A. final examination from Gauhati University in second Division from L.C. Bharali College, Maligaon Guwahati in the year 1999. He has also obtained Diploma in English and Assamese typewriting from Saraihat Commercial training institute, Beltoal Tinali, Guwahati – 28 in the year 1998.

ANNEXURE – B is the photocopy of the B.A. passed certificate issued by the Principal, L.C. Bharali College, Maligaon, Guwahati – 11.

ANNEXURE – C is the photocopy of the Diploma in English and Assamese Typewriting issued by the Principal, Saraihat Commercial Training Institute, Beltoal, Guwahati.

4.4 That your applicant begs to state that immediately after death of his father he filed many representations before the office of the Respondent No. 3 for compassionate appointment. In one of the such representations dated 09.07.2002 he has stated that his step mother has already married to another person, as such he is the only legal heir of late Santi Ranjan Dey. Lastly, the office of the Respondent No. 3 vide their Office Memorandum No. E-3/Rectt./97(2)-II-6234 dated 03.06.2004 in reference to the applicant's application dated 09.01.2004 advised him to apply for grant of compassionate appointment in the prescribed application forms (copy enclosed) for further necessary action in this regard. Accordingly, the applicant on 14.06.2004 sent the full particulars in the prescribed form as supplied by the respondents. The office of the Respondent No. 3 vide their Office Memorandum No. E-3/RECTT./97(2)-II-12018 dated 28.10.2004 directed the applicant to submit some documents to the office of the Respondent No. 3. The documents which were sought by the respondents are (1) the documentary proof of second marriage of applicant's step mother with one Sri Dhiren Rajbongshi, (2) if the applicant is not in



position the documentary proof of his step mother's second marriage, a written declaration from her that she is not willing to be considered for the compassionate appointment in the Intelligence Bureau (IB for short) and she has no objection, if the applicant's request for compassionate appointment in IB is considered. Accordingly, Smt. Rakha Rani Dey on 09.02.2005 issued a declaration certificate that she is not willing to be considered for the compassionate appointment in IB and she has no objection if her son Sri Pulak Dey appointed in IB in place of her. Thereafter, your applicant vide his letter dated 09.02.2005 submitted the declaration of his step mother to the concerned authority. In spite of submission of all necessary documents the respondents did not take any step in this regard. As such, he filed a reminder on 27.06.2005 before the Respondent No. 3 for taking action in this regard. The Respondent No. 3 vide his letter No. E-3/Rectt./97(2)-II-14020 dated 22.11.2005 rejected the claim of the applicant for compassionate appointment in very cryptic and mechanical manner.

ANNEXURE - D is the photocopy of the representation dated 09.07.2002.

ANNEXURE - E is the photocopy of Office Memorandum No. E-3/Rectt./97(2)-II-6234 dated 03.06.2004 with prescribed format for appointment on compassionate ground.

ANNEXURE - F is the photocopy of Office Memorandum No. E-3/RECTT./97(2)-II-12018 dated 28.10.2004.

ANNEXURE - G is the photocopy of the declaration certificate dated 09.02.2005 issued by Smt. Rekha Rani Dey.



✓

**ANNEXURE - H** is the photocopy of the letter dated 09.02.2005 submitted by Sri Pulak Dey before the authority concerned.

**ANNEXURE - I** is the photocopy of reminder dated 27.06.2005 submitted by Sri Pulak Dey.

**ANNEXURE - J** is the photocopy of the rejection letter dated 22.11.2005.

4.5 That your Applicant begs to state that being aggrieved by the Rejection Order dated 22.11.2005, he filed an Original Application No.129 of 2006 before this Hon'ble Tribunal. The Hon'ble Tribunal after hearing the both the parties disposed the aforesaid Original Application at the admission stage by directing the 2<sup>nd</sup> Respondents to consider the case of the Applicant in afresh and liberty was also given to the applicant to file a Comprehensive Representation before the Respondents. Accordingly applicant filed a Comprehensive Representation before the Respondent No.2. The Office of the Respondent No.2 vide it's Order No.64/Estt.(G-1) /1999 (71) - CG - 6462-64 dated 24<sup>th</sup> July 2006 rejected the claim of the Applicant in a very arbitrary and mechanical manner. Hence finding no other alternative your Applicant is compelled to approach this Hon'ble Tribunal again for seeking justice in this manner.

**ANNEXURE-K** is the photocopy of Order dated 02.06.2006 passed by this Hon'ble Tribunal.

**ANNEXURE-L** is the photocopy of Representation filed by the Applicant before the Respondent No.2

**ANNEXURE-M** is the photocopy of the Rejection Order No.64/Estt.(G-1) /1999 (71) - CG -6462-64 dated 24<sup>th</sup> July 2006.



4.6 That your applicant begs to state that the Office of the Respondent No. 2 had passed the Rejection Order dated 24.07.2006 without applying their proper mind. The Respondent No.3 on 03.06.2004 has himself issued the prescribed format to the applicant to enable him to apply for compassionate appointment. Later on he has also asked the applicant to submit necessary documents and no objection certificate from his step mother for further necessary action by the respondents. Accordingly, the applicant has submitted all necessary documents and no objection certificate from his step mother before the Respondent No. 3 for initiation of his compassionate appointment. The Respondents are fully aware of the fact that the father of the Applicant i.e. Late Santi Ranjan Dey, Ex. ACIO-II (G) expired on 21.10.1999, but inspite of that the Respondent No. 3 initiated the whole process of Compassionate Appointment of the Applicant in the month of June 2004 and all requirements was forwarded to the IB Head Quarter in the month of August 2005. The Applicant on apprehension that he will get the job on Compassionate Ground, he undertook all the hurdles, odds, difficulties, financial hardships and mental anxieties to collect necessary papers and also no objection certificate from his step mother. Now after receiving the Rejection letter he is suffering from mental depression and anxieties. Moreover, there is nobody to look after him, as his step mother has already remarried and enjoying the terminal benefits and monthly pension of her first husband i.e. Late Santi Ranjan Dey. However, the Applicant being only son of the Late Santi Ranjan Dey is suffering from all odds and difficulties. As such it is a fit case for this Hon'ble Tribunal to interfere into this matter by directing the Respondent No.2 consider the case of the Applicant as his case is genuine and need to be considered by the Authority as an exceptional case.

4.7 That your applicant begs to state that after the death of his father, he is suffering from acute financial hardship and mental torture since his step mother had married to another person. He has no other sources of income like agricultural etc.



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4.8 That your Applicant begs to state that his father late Santi Ranjan Dey rendered his service under the Respondents with sincerity and devotion to his duty till his death.

4.9 That your Applicant begs to state that he is suffering from frustration and mental depression due to non-appointment in any post on compassionate ground by the Respondents in spite of the fact that his case is genuine and needs sympathetic consideration. Moreover, the Respondent No. 3 has initiated all steps in this regard and the applicant was in full hope that he will be definitely appointed by the respondents on the compassionate ground.

4.10 That your Applicant begs to state that the respondents have violated the fundamental rights guaranteed under the Constitution of India by non-appointing the applicant on compassionate ground in any post.

4.11 That your applicant begs to state that he is running from pillar to post for his appointment on compassionate ground

4.12 That the Applicant humbly submits that the applicant has the right to live and right to work as well as to avail the benefit of compassionate appointment, which has been taken away by the Respondents and also have violated the rights of the applicant enshrined under the Constitution of India. Hence, the action of the Respondents is illegal, arbitrary, malafide and also in colourable exercise of power. As such, it is a fit case for immediate interference by this Hon'ble Tribunal.

4.13 That your Applicant submits that he should be appointed immediately in any post under the Respondents.

4.14 That the Applicant demanded justice and the same has been denied to him.

*Pulak Dey*

4.15 That this application has been filed bona fide to secure the ends of justice.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :**

5.1 For that, due to the above reasons narrated in detailed the action of the Respondents is *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence the rejection letter dated 24<sup>th</sup> July 2006 issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.2 For that, the action of the Respondents is *prima facie*, whimsical, malafide, illegal and with a motive behind. As such, the action of the Respondents not appointing the applicant in any post is not only illegal, arbitrary but also violative of principle of natural justice. Hence the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.3 For that, the Respondent No.3 has initiated the whole process of appointment of the applicant on compassionate ground and thereafter, without any cause or causes rejected the claim of the applicant in a most arbitrary manner. Hence, the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.4 For that, there are sufficient numbers of vacancies under the Respondents, as such the Respondent No. 3 knowing fully well about the fact and position he had initiated the whole matter by himself, but now the Office of the Respondent No.2 in a flimsy ground rejected the claim of the applicant. Hence the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.5 For that, the Respondents have violated the fundamental rights guaranteed under Articles 14, 16 & 21 of the Constitution of India.



5.6 For that, it is not just and fair to deprive the Applicant from getting appointment on compassionate ground by the Respondents. Hence, the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.7 For that the Central Government being a model employer cannot be allowed to adopt a differential treatment to the Applicant. Hence, the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.8 For that, the action of the Respondents is not maintainable in the eye of Law as well as in fact. Hence, the rejection letter issued by the Office of the Respondent No.2 is liable to be set aside and quashed.

5.9) For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law.

The Applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

#### **6. DETAILS OF REMEDIES EXHAUSTED :**

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

#### **7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority nor any such application, writ petition or suit is pending before any of them.



**8. RELIEF SOUGHT:**

Under the facts and circumstances stated above, the Applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief/relieves sought for by the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1 That the Hon'ble Tribunal may be pleased to set aside the impugned rejection letter No. No.64/Estdt.(G-I)/1999 (71)-CG 6462-64 dated 24<sup>th</sup> July 2006 (at ANNEXURE-M) and to direct the Respondents to appoint the applicant in any post on compassionate ground forthwith.

8.2 To pass any other appropriate relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3 To pay the cost of the application.

**9. INTERIM ORDER PRAYED FOR:**

At this stage Applicant most humbly prays before this Hon'ble Tribunal to direct the Respondents to reserve one post, if available, till final disposal of this Original Application.

10. Application is filed through Advocate.

11. **Particulars of I.P.O.:**

I.P.O. No. :- 26 G 326019

Date of Issue :- 2-8-2006

Issued from :- Gwahali G.P.O

Payable at :- Gwahali.



### VERIFICATION

I, Sri Pulak Dey, Son of Late Santi Ranjan Dey, aged about 29 years, resident of Asha Niketan, Near N.B. Pathshala, P.O.- Golakgan, District - Dhubri. PIN - 783334, Assam, do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11- are true to my knowledge, those made in paragraph nos. 4.2, 4.3, 4.4, 4.5- are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 2<sup>nd</sup> day of November 2006 at Guwahati.

Pulak Dey.

Sl. No.:  
ক্রমিক নং

39305

(2405)

GOVERNMENT OF ASSAM  
 (অসম চৰকাৰ)  
 DIRECTORATE OF HEALTH SERVICES  
 (অসম স্বাস্থ্য বিকাশ বোৰ্ড)  
 CERTIFICATE OF DEATH  
 (অসম মৃত্যু পত্ৰ)



ISSUED UNDER SECTION 12 of the Registration of Births and Deaths Act, 1969.

ISSUED UNDER SECTION 17

(অসম মৃত্যু পত্ৰ বৰ্তমান বৰ্ষ ১৩/১৪ অনুসৰি বিদ্যুতীকৃত)

This is to certify that the following information has been taken from the original record of Death which is in the register for 16th November 1999 Registration Unit of Medical Officer of District Cumilla of the State of Assam.

জন্ম ও মৃত্যু বৰ্তমান বৰ্ষ ১৩/১৪ অনুসৰি বিদ্যুতীকৃত অসম বাসিন্দা জিলান খণ্ড/পৌরসভা গোটেৰ পঞ্জীয়ন গোটেৰ পঞ্জীয়ন মূল অভিলেখৰ পৰা সংযুক্ত।

Date of Birth/জন্ম তাৰিখ	16/01/1999	Nationality/জাতত্ব	INDIAN
Date of Death/মৃত্যু তাৰিখ	16/01/1999	Permanent Address/স্থায়ী ঠিকনা	Golokganj, Dhubri
Place of Death/মৃত্যু স্থান	Golokganj, Dhubri	Registration No./পঞ্জীয়ন নং	3966
Name of Father/Husband/পিতা/মাতা/স্বামী	Shyamal Chandra Bhattacharya	Date of Registration/পঞ্জীয়ন তাৰিখ	16/11/1999
Designation/পদবী	Retired Doctor	Permanent Residential Address/স্থায়ী ঠিকনা	Golokganj, Dhubri
Date/তাৰিখ	16/11/1999	Signature/স্বাক্ষৰ	<u>Assam</u>

Signature of Commissioner/মুখ্য পঞ্জীয়ক  
 Designation/পদবী

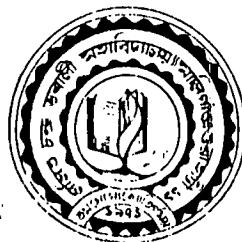
Chief Registrar/মুখ্য পঞ্জীয়ক

ATTESTED

Bhatte

ADVOCATE

L. C. BHARALI COLLEGE



MALIGAON :: GUWAHATI-11

ESTD. 1971

No. 2835

This is to certify that Pulak Ray

Roll No. 9195 No. 42 has duly passed the TDC part II (Arts) final examination of the Gauhati University, Assam Higher Secondary Education Council from this College in 1999 and was placed in the 2nd division, class. While he/she was a student of this College his/her character and conduct were good.

I Wish him/her success in life.

  
Principal

Dated 9-10-99.

Attested

29/9/99

9/10/99  
Intelligence Office  
Intelligence Bureau  
(ISI)  
Government of India

L. C. BHARALI COLLEGE  
MALIGAON GUWAHATI-781011  
PRINCIPAL

L. C. Bharali College  
Maligaon, Guwahati-11

ATTESTED

  
Advocate

15

**SARASWATI COMMERCIAL TRAINING INSTITUTE**

SL. NO. 2926  
TRAINING INSTITUTE  
Date 12-11-95  
G. No. 32011-23

BELTOLA, GUWAHATI-781028

ANNEXURE E



Beltola Tiniali : Guwahati - 781028 (Assam)  
**DIPLOMA**

Certified that Mr. / Mrs. / Mrs. .... Pulin Dey .....  
Son/daughter/wife of Sri. .... Santu Ranjan Dey ..... attended this Institute during  
the session 1993-..... and received a full course of training in  
ENGLISH / ASSAMESE / HINDI TYPEWRITING, STENOGRAPHY IN ENGLISH AND ASSAMESE.

He/She successfully passed the final examination, having attained the speed of 45 W.P.M. in English, words per minute and has been placed in the 1st class division.

He/She also thoroughly acquired the knowledge of using and taking care of various  
TYPE WRITERS of different makes.

I consider him/her qualified to be a TYPIST & STENOGRAPHER.

Signature  
Instructor  
S. C. T. Institute.

Date 12-11-95

**ATTESTED**  
Bhattacharya  
**ADVOCATE**

Signature  
Principal / Advisor  
S. C. T. Institute.

Date 12-11-95

30

To

The Deputy Director,  
S.I.B, Beltola,  
Guwahati-28

Dt. 9th July 2002

Subj: Prayer for job on compassionate ground  
on the death of my Father Lt. S. R. Day,  
Ex. AGIO-II (G) and on the remarriage of  
my Step mother.

Sir,

Most humbly and respectfully I beg to have the  
honour to bring to your kind notice, the following  
for your kind consideration and favourable order.

1. That sir, I am the only son of Late Santi Ranjan Day and Late Kalyani Day and I was born on 1st January 1978 at Dhubri .
2. That sir, my father had been serving in the subsidiary Intelligence Bureau.
3. That after the death of my own mother on 16th July, 1991 when I was of 13 years only, my father again married to Rakhi Rani Day on April 1992 .
4. That sir, my step mother gave birth to a girl child on January, 1993.
5. That sir, unfortunately the relationship between Mrs. Rakhi Rani Day and my father was not a peaceful one and that is also true between me and my step mother.
6. That sir, after the death of my father I am chased out of the house . Fortunately I managed a private job with a very low salary.

contd.... 2

ATTESTED

*Shatto*  
ADVOCATE

-2-

8. That sir, my step mother is the contender of the job legally at your office on compassionate ground till she remains as widow of my departed father.

9. That sir, I have come to know from an authentic sources that my step mother has been married to a man Mr. Dhiren Rajbongshi of Banunigaon, Dist. Kamrup.

10. That sir, on the ground of remarriage, my step mother remain no longer a contender of job at S.I.B on compassionate ground.

Under the circumstances, I, Shri Pulak Dey, the only son of Late Santi Ranjan Dey stands to be the only legal Contender of job on compassionate ground.

I most earnestly request you to pay king quick attention to this matter and do the needful at your earliest. For this act of your kindness I shall remain ever grateful to you.

Yours faithfully,

(Pulak Dey).

N.B:

S/O D. S. R. Dey, ACIO-11(G)

Necessary documents are  
attached herewith.

**ATTESTED**

*B. Bhatte*  
ADVOCATE

MOST IMMEDIATE

No. F-3/Recdtt./97(2)-II- 6234  
 Subsidiary Intelligence Bureau,  
 (MHA), Government of India,  
 Guwahati.

Dated the, 03 JUN 2004

MEMORANDUM  
00000000000000000000

Please refer to your application dated 09.01.2004 regarding employment in our organisation, on Compassionate grounds.

2. You are hereby advised to apply for grant of Compassionate appointment in the prescribed application forms (copies enclosed) duly filled in and send to us for further necessary action.

( U.S. Tripathi  
 Assistant Director )  
 376/04

To

✓ Shri Pulak Dey,  
 C/O-Late Shri S.R. Dey.  
 "Asha Niketan", N.B. Pathsala.  
 P.O. & P.S. GOLAKGANJ.  
 Distt. Dhubri.  
 PIN-783334 (ASSAM).

ATTESTED

Bhattacharya  
 ADVOCATE

PROFORMA REGARDING EMPLEMENT OF EXPENDITURE OF GOVERNMENT SERVANTS  
DYING WHILE IN SERVICE/RETired OR UNVALID PENSION

## PART - A

I. (a) Name of the Government servant (Deceased/retired on medical grounds). LATE SR. SANTI RANJAN DEY.

(b) Designation of the Government servant. A.C.I.O. II (G)

(c) Whether it is Group 'A' or not? NOT

(d) Date of Birth of the Government servant. 21-10-1999

(e) Date of death/retirement on medical grounds. 13-06-1944

(f) Total length of service rendered. 21-10-1999

(g) Whether permanent or temporary. Permanent

(h) Whether belonging to SC/ST/BC. NO

II. (a) Name of the candidate for appointment. SRI PULAK DEY.

(b) His/Her relationship with the Government servant. Father and son - SON

(c) Date of birth. 01-01-1978

(d) Educational qualifications. B.A Passed.

(e) Whether any other dependent family member has been appointed on compassionate grounds. NO

III. Particulars of total assets left including amount of :-

(a) Family pension. Enhanced rate - Rs. 2925/-

(b) D.C.R. Gratuity Normal rate - Rs. 1755/-

(c) G.P.F. Balance Rs. 2,40,450/-

(d) Life Insurance Policies (including Postal Life Insurance). NIL

(e) Movable and immovable properties etc. including amount earned therefrom by the family. Nil

(f) C.G.E. Insurance amount Rs. 41,644/-

(g) Encashment of leave Rs. 63,319/-

(h) Any other assets

TOTAL

IV. Brief particulars of liabilities, if any.

1. To repay the borrowed amount

2. To the deceased Govt. servant

**ATTESTED**  
S. Shalte  
ADVOCATE

V. Particulars of all dependant family members of the Government servant (if some are employed, their income and whether they are living together or separately)

Sl. No.	Name(s)	Relationship with the Government servant	Age	Address	Employed or not (if employed particulars of employment and emoluments)
(1)	(2)	(3)	(4)	(5)	(6)
1.	SRI PULAK DEY, Father and (son)	26	c/o-LT S.R.Dey, N.O.T (Asha Niketan) (N.B. Pathshala) P.O & PS - Golakguri Dist. Dhubri (Assam). PIN - 783334.		
2.					
3.					
4.					
5.					

VI.

DECLARATION/STATEMENT

1. I hereby declare that the facts given by me above are, to the best of my knowledge, correct. If any of the facts herein mentioned are found to be incorrect or false at a future date, my services may be terminated.

2. I hereby also declare that I shall maintain properly the other family members who were dependent on the Government servant/member of the Armed Forces mentioned against I(a) of Part-A of this form and in case it is proved at any time that the said family members are being neglected or not being properly maintained by me, my appointment may be terminated.

*Pulak Dey*

Signature of the candidate

Name:- SRI PULAK DEY

Address:- c/o. LT. S.R. Santi Ranjan Dey  
(Asha Niketan) Near N.B. School

P.O. & PS - Golakguri

Dist. Dhubri,  
Assam

Pin - 783334

**ATTESTED**  
*Bhante*  
**ADVOCATE**

No.E-3/RECTT/97(2)-II- 42018  
Subsidiary Intelligence Bureau,  
(MHA), Government of India,  
Guwahati.

Dated the, 28.10.04

MEMORANDUM

Please refer to your application dated 14.06.04 requesting for your Compassionate appointment in the Intelligence Bureau, in place of Smt. Rakhi Rani Dey, widow of late Shri S.R. Dey, Ex-ACIO-II/G.

2. In this connection, the following documents may please be submitted to this Office.

(i) The documentary proof of second marriage of your step mother with one Shri Dhiren Rajboushi.

(ii) If you are not in a position to submit the documentary proof of your step mother's second marriage, a written declaration from her that she is not willing to be considered for the Compassionate appointment in the IB and she has no objection if your request for Compassionate appointment in IB is considered.

  
Assistant Director/A

To

Shri Pulak Dey,  
S/O-late Shri S.R.Dey,  
Asha Nekantan, near N.B. Pathsala,  
P.O. Golakganj,  
Distt. Dhubri (ASSAM)  
PIN-783334.

**ATTESTED**  
*Shalte*  
**ADVOCATE**

To,

The Assistant Director (A)  
S.I.B. Office, Beltola.  
Guwahati - 28

Dated : 07-02-05

**DECLARATION CERTIFICATE**

Sir,

I am Smt. Rakhi Rani Dey, W/o Late Sri S. R. Dey, Ex.-A.C.I.O. II (General) declare that I am not willing to be considered for the Compassionate appointment in the I.B. and I have no objection if my son Mr. Pulak Dey appointed in the I.B. in place of me.

So, I request you to consider the above mentioned appointment as soon as possible and this is my final declaration and no objection certificate and oblige.

Thanking you.

Yours faithfully

Smt. Rakhi Rani Dey.

Smt. Rakhi Rani Dey 07-2-05.

W/o : Late Sri S. R. Dey.

Ex.-A.C.I.O. II (General)

**ATTESTED**

*Bhatter*

**ADVOCATE**

1 - 4752132001

38

To,

The Assistant Director,  
S.I.B. Office, Beltola  
Guwahati - 28

Dated : 09-02-05

Sir,

In the reference of your letter No. E-3 REC/T/97(2) -II-12018 dated 28-10-04. I have enclosed the declaration of my step mother with this letter that she is not willing to do the job on the compassionate appointment and requesting you to appoint me in the place of Smt. Rakhi Rani Dey W/o Late Sri S. R. Dey Ex. A.C.I.O II (General).

So, I request you to appoint me in your department and oblige. Then our family will be established by me.

Thanking you.

Yours faithfully

Sri Pulak Dey

Sri Pulak Dey

S/0 Late Sri S. R. Dey

Ex. A.C.I.O. II (General)

09-02-05

**ATTESTED**

*S. Shatto*  
**ADVOCATE**

Reminder No - I

To,

**The Assistant Director,  
S. I. B. Office, Beltola  
Guwahati - 28  
Gangotri Bhawan.**

Date : 27/06/05

Ref. : Your Memo No. E-3 REC'D / 97 (2) - II - 12018 dated 28-10-04.

Sub : Prayer for getting replay.

Sir,

With reference to the subject cited I have the honour to inform you that, I have submitted one petition on 09-02-05 along with my step mother's no objection certificate. But I did not receive any response from your side till date.

Therefore, I request you kindly to take necessary steps in this regard in my favour at an early date, and for this act of your kindness I shall remain ever grateful to you.

Thanking you.

Yours faithfully

( Sri Putul Dey )  
S/o : Late Sri S. R. Dey  
Ex. A.C.I.O. II ( General )

N.B. : My step mother's no objection certificate and my letter dated 09-02-05 are enclosed herewith.

**ATTESTED**

*Bhattacharya*

**ADVOCATE**

-25-

MOST IMMEDIATE

No.E-3/Recd./97(2)-II- 140200  
 Office of the Joint Director,  
 Subsidiary Intelligence Bureau,  
 (MHA), Government of India,  
 Basistha Road, Beltola, Ghy-28.

To,

Shri Pulak Dey,  
 S/O-late Shri S.R. Dey.  
 Asha Niketan, Near N.B. Pathshala,  
 P.O. - GOLAKGANJ.  
 Distt. Dhubri.  
 ASSAM,  
 Pin-783334.

22 NOV 2005

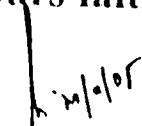
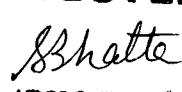
Sir,

This has a reference to your application dated 14.06.2004 and 27.06.2005 regarding your appointment in IB on compassionate grounds.

The request for your employment in IB on compassionate grounds was considered by IB Hqrs but could not be acceded to due to administrative constraints.

This is for your information please.

Yours faithfully

  
 Assistant Director(A)
**ATTESTED**
  
 Advocate

## ORDER SHEET

Original Application No. 129/06

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s) Pulak Dey

Respondents U.O.T. (Ans)

Advocate for the Applicant(s). Adil Ahmed, Mr. S. Bhattacharyee.

Advocate for the Respondant(s) ... Case.....

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

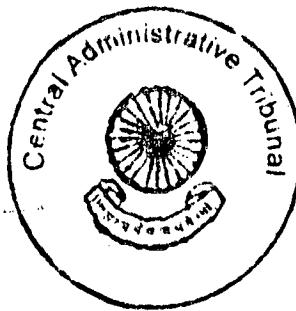
1. 6.2006 Present: The Hon'ble K. V. Sachidanandan Vice-Chairman.

The applicant is the son of Late Santi Ranjan Dey, who died in harness on 21.10.1999 and at that time he was minor. After passing B.A. examination applicant has made an application for compassionate appointment on 9.7.2002. On 3.6.2004 he was advised to for applying in prescribed format, which he did. Subsequently he was asked to produce no objection certificate for his stepmother, which was also complied with. But on 22.11.2005 respondents have rejected his claim. Being aggrieved, he has filed this O.A. seeking for the following reliefs:-

1.1 That the Tribunal may be pleased to set aside the impugned rejection letter No. E-3/Rectt./07(2)-11-14020 dated 22.11.2005 (Annexure-J) and to direct the Respondents to appoint the applicant in any post on compassionate ground forthwith.

Contd. P/2

ATTESTED

Bhattacharyee  
ADVOCATE

Contd.

2.6.2006

8.2 To pass any other appropriate relief or reliefs to which the Applicant may be entitled and as may be deemed fit and proper by the Hon'ble Tribunal.

8.3 To pay the cost of the application."

Heard Mr.A.Ahmed, learned counsel for the applicant. Mr.M.U.Ahmed, learned Addl. C.G.S.C. appeared for the respondents. Counsel for the applicant submits that applicant's claim was rejected by Annexure-J order dated 22.11.2005 on the ground "due to administrative constraints". Learned Addl.C.G.S.C. has not able to enlighten this Tribunal as to what is "administrative constraints". Counsel for the applicant submits that administrative constraint is not a reason for denying compassionate appointment.

Considering the entire facts of the case this Tribunal is of the view that justice will be met if a direction is given to 2nd respondent to consider the case of the applicant afresh. Accordingly, I direct the said respondent to consider the applicant's case afresh for compassionate appointment with due application of mind and as per rules, regulations governing the subject and pass appropriate order communicating the same

Date of Application : 13-6-06

Date on which copy is ready : 13-6-06 to the applicant within three months from

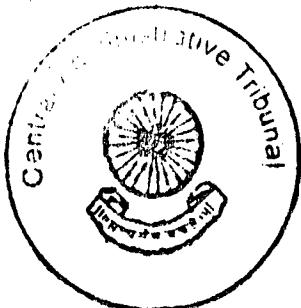
Date on which copy is delivered : 13-6-06 the date of receipt of this order. It is

Certified to be true copy

made clear that if the applicant intends to file comprehensive representation, he is at liberty to do so.

Section Office (Judl)  
C. A. T. Guwahati Bench  
Guwahati.

The O.A. is disposed of as above at the admission stage itself. No costs.



13-6-06  
N. S. R.

ATTESTED

S. Bhatte  
ADVOCATE

Sd/VICE CHAIRMAN

13/6/06

To

The Director,  
Intelligence Bureau,  
Ministry of Home Affairs,  
35, S.P. Marg, New Delhi.

Sub.: Prayer for appointment on compassionate ground.

Reference: Judgment and Order dated 02.06.2006, passed in Original Application No. 129 of 2006 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

Most humbly and respectfully, I beg to state that, I am the only son of Late Shanti Ranjan Dey, who had served under the office of the Assistant Director (A), Subsidiary Intelligence Bureau as an Assistant Control Intelligence Officer, Grade II(G). It is to be stated that, my mother died on 19.04.1991 when I was 13 years old. Thereafter, my father married one Smt. Rakhi Rani Dey in the month of April 1992. Unfortunately, the relationship between my father and step mother was not peaceful and cordial. My father expired on 21.10.1999. After expiry of my father my step mother remarried on Mr Dhiren Rajbongshi a reside of Bamunigaon, District – Kamrup, Assam.

I had passed my B.A. Final Examination from Gauhati University and I have also obtained Diploma in English and Assamese Type-writing. Immediately after death of my father I have filed many representations before the Deputy Director, Subsidiary Intelligence Bureau, Guwahati - 28. Lastly, the office of the Assistant Director (A), on 03.06.2004 advised me to apply in prescribe format. Accordingly, on 14.06.2004, I send the full particulars in the prescribed form as supplied by the office. The office of the Deputy Director, SIB, Guwahati vide memorandum dated 28.10.2004 directed me to submit the following documents : (1) the documentary proof of second marriage of my step mother with one Shri Dhiren Rajbongshi, (2) if I am not in position to prove of my step-mother's second marriage, then a written declaration from her that she is not willing to be considered for compassionate appointment in I.B. and she has no objection if I am appointed in LB. in place of her. Accordingly, I submitted a declaration from my step mother to the concerned authority that she has no objection if I am appointed on compassionate ground in I.B. in place of her. After submission of all necessary documents by me, the Deputy Director,

**ATTESTED**

*B. Bhatia*  
ADVOCATE

SIB, Guwahati rejected my claim on 22.11.2005 citing a ground "due to administrative constraints" my case cannot be considered.

Being aggrieved by this, I filed an Original Application No. 129 of 2006 before the Hon'ble Central Administrative Tribunal, Guwahati bench, Guwahati against the rejection letter dated 22.11.2006. The Hon'ble tribunal after considering the entire facts of the case was of the view that justice will be met if a direction is given to 2nd Respondent therein, i.e. the Director Intelligence Bureau, Ministry of Home Affairs to consider my case afresh and I have been given liberty by the Hon'ble Tribunal to file a comprehensive representation before you. Therefore, I most humbly and respectfully submit the afresh instant representation before your honour for your kind and sympathetic consideration.

Thanking you in anticipation.

Date :

Yours faithfully,

( Pulak Dey )  
Son of Late Shanti Ranjan Dey  
Ex Assistant Control Intelligence  
Office, Grade II (G),  
Ashaniketan, Near N.B. Pathshala  
P.O. - Golakganj, Dist. - Dhubri  
PIN - 783334, Assam.

Copy enclosed :

Judgment and Order dated 02.06.2006 passed in O.A. No. 129 of 2006 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

**ATTESTED**

*S. Bhattacharya*

**ADVOCATE**

-Typed copy-

NO.64/Estt (G-1)/1999 (71)-CG 6462-64

Intelligence Bureau  
(Ministry of Home Affairs)  
Government of India

New Delhi, the 24 Jul 2006

ORDER

Whereas, Late Shri S. R. Dey ex-ACIO-II(G) expired on 21.10.1999 leaving behind his wife, two daughters and only son. The family received terminal benefits amounting to Rs.4,24,643/- and family pension @ Rs.2925/- plus admissible DP/DA per month.

2. And whereas Smt. Rakhi Rani Dey w/o Late Shri S. R. Dey, ex-ACIO-II(G) had applied for appointment in IB on compassionate grounds in 1999. As per the guidelines issued by DOP&T vide their OM No.14014/6/94-Estt (D) dated 09.10.1998 compassionate appointment is made up to a maximum of 5% vacancies falling under direct recruitment quota in any Group 'C' and 'D' post. The case of compassionate appointment of Smti Rekha Rani Dey w/o Late Shri S. R. Dey, ex-ACIO-II(G) was considered by the Compassionate Appointment Committee in the light of the relevant Govt. instructions on the subject but the request could not be acceded to due to non availability of Group 'D' post under compassionate appointment quota.

3. And whereas with the introduction of optimization scheme of the Govt. of India vide DOP & TOM No.2/8/2001-PIC dated 16.5.2001, restricting the direct recruitment to the extent of 1/3<sup>rd</sup> of the direct recruitment vacancies, no direct recruitment could be made thereafter for Group 'D' posts for which she was eligible.

4. And whereas in June 2004, Shri Pulak Dey s/o Late S. R. Dey, ex-ACIO-II(G) applied for appointment in IB on compassionate grounds in place of her step mother namely Shri Rekha Rani Dey to SIB Guwahati which after completion of all requirements was forwarded to IB Hqrs on August 1, 2005.

5. And whereas, as per the Govt. instructions contained in DOP&T OM No.14014/19/2002-Estt.(D) dated 05.05.2003, if compassionate appointment to genuine and deserving cases is not possible in the first year due to non availability of regular vacancies, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year for consideration for compassionate appointment by the Committee, subject to the availability of a clear vacancy within the prescribe quota. If on scrutiny by the committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year. Besides, the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years, subject to the condition that the prescribe Committee has reviewed and certified the penurious condition of the applicant at the end of the first and second

ATTESTED

*Bhatte*  
ADVOCATE

-EXHIBIT A-

- gqos beqyT -

## Political Science Bmajors

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MRC 80

DOA per month. The DOA is the number of days between the date of the first payment and the date of the last payment. The DOA is calculated as follows:

all documentation was sent via e-mail to IH HHS on August 1, 2002.

year. After three years, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed, and will not be considered again.

6. And whereas, since the death of the Govt. Servant more than three years back, the case of the applicant attracts the provisions contained in DOP&TOM No.14014/19/2002-Estt (D) dated 05.5.2003 and therefore his request for compassionate appointment could not be acceded to. Accordingly, the applicant was apprised of the decision through SIB, Guwahati.

7. And whereas, the Hon'ble CAT, Guwahati Bench vide order dated 02.6.2006 on OA No.129/2006 titled Pulak Dey Vs UOI & Others, have directed the Deptt. to consider the case of the applicant afresh for compassionate appointment with due application of mind and as per rules, regulations governing the subject and pass appropriate order communicating the same to the applicant within three months from the date of receipt of the order.

8. Now, therefore in compliance with the orders of CAT, Guwahati Bench the case of appointment of Shri Pulak Dey on compassionate grounds has been considered by the Competent Authority afresh in light of the latest Govt. instructions contained in DOP&TOM dated 05.5.2003. However, his request for appointment in IB on compassionate grounds could not be acceded to.

Sd/-  
Illegible  
Assistant Director/G

Shri Pulak Dey  
S/o Late Shri S. R. Dey  
Asha Niketan, Near N. B. Pathsala  
P.O: Golakganj, Distt. Dhubri  
Assam-78334

ATTESTED  
Bhattacharya  
ADVOCATE

REGISTERED/AD

NO. 64/Estd(G-1)/1999(71)-CG 6462-64  
Intelligence Bureau  
(Ministry of Home Affairs)  
Government of India,

New Delhi, the 24 JUL 2005

ORDER

Whereas, Late Shri S.R.Dey ex -ACIO-II(G) expired on 21.10.1999 leaving behind his wife, two daughters and only son. The family received terminal benefits amounting to Rs. 4,24,643/- and family pension @ Rs 2925/- plus admissible DP/D.A per month.

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5. And, whereas, as per the Govt. instructions contained in DOP&T OM No. 14014/19/2002-Estd(D) dated 05.5.2003, if compassionate appointment to genuine and deserving cases is not possible in the first year due to non availability of regular vacancies, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one more year, for consideration for compassionate appointment by the Committee, subject to the availability of a clear vacancy within the prescribed quota. If on scrutiny by the committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year. Besides, the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years, subject to the condition that the prescribe Committee has reviewed and certified the penurious condition of the applicant at the end of the first and second year. After three years, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed, and will not be considered again.
6. And whereas, since the death of the Govt. Servant occurred more than three years back, the case of the applicant attracts the provisions contained in DOP&TOM No. 14014/19/2002-Estd(D) dated 05.5.2003 and therefore his request for compassionate appointment could not be acceded to. Accordingly, the applicant was apprised of the decision through SIB, Guwahati.
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Contd/-

**ATTESTED**  
*Bhatter*  
**ADVOCATE**

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*J. S. Sharma*  
Assistant Director/G

Shri Pulak Dey,  
S/O Late Shri S.R.Dey,  
Asha Niketan, Near N.B.Pathshala,  
P.O Golakganj, Distt Dhubri  
Assam -783334

**ATTESTED**  
*Bhattacharya*  
**ADVOCATE**

3 APR 2001

गुवाहाटी बैचन्चर्च  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI  
OA No. 280/06  
SHRI PULAK DEY

.....APPLICANT

-VERSUS-

UNION OF INDIA & OTHERS

....RESPONDENTS

Filed by  
The Respondents  
through  
S. Usha Devi  
Addl. Dir. ICS  
0214107

Barman  
S. Usha Devi  
Addl. Deputy Director,  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India,  
Guwahati.

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENTS

I, Sri P. N. Sen, aged about 54 years, at present working as Addl. Dy. Director do hereby solemnly affirm and state as follows:-

1) That I have received a copy of the Original Application (OA) on my official capacity and have understood the contentions made thereof. I am well acquainted with the facts and circumstances of the case. Save and except the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof. I am authorized and competent to swear this affidavit on behalf of the respondents and give my reply as under:

That before submitting parawise reply, a brief background of the case is given herein for appreciation

BRIEF BACKGROUND OF THE CASE

2) Consequent upon the death of Late S.R. Dey, ex- ACIO-II(G) on 21.10.1999, the family of the deceased received terminal benefits amounting to Rs. 4,19,643/- and was sanctioned family pension @ Rs. 2925/- plus admissible DP/DA per month. The family of the deceased consists of his second wife Smti Rakhi Rani Dey and the applicant Shri Pulak Dey and daughter Kumari Madhumita Dey.

3) Smti Rakhi Rani Dey w/o Late Shri S.R. Dey, ex- ACIO-II (G) had applied for appointment in IB on compassionate grounds in 1999. The guidelines issued by DOP&T vide their OM No. 14014/6/94-Estt (D) dated 09.10.1998 (Copy enclosed) stipulates that the whole object of the scheme is to grant compassionate appointment to enable the families left in penury and without any means of livelihood to tide over the sudden crisis and relieve the family of the deceased or the Govt. servant who retires on medical grounds from financial destitution and to help it to get over the emergency. Under the provisions of above instructions issued by the Government of India from time to time, each and every case of compassionate appointment has to be adjudged as per circumstances of the case restricting the total compassionate appointments total maximum of 5% vacancies falling under direct Recruitment quota in Group 'C' and Group 'D' posts. In the meanwhile, the Govt. of India, vide DOP & T OM No. 2/8/2001-PIC dated 16.5.2001 issued instruction on optimization of direct recruitment to civilian posts restricting the direct recruitment to the extent of 1/3 of the Direct Recruitment vacancies arising in a year subject to the condition that the total vacancies proposed to be filled should be within the 1% of the total sanctioned strength of the Department and calculating the vacancies of compassionate appointment to the extent of 5% on these direct recruitment vacancies.

4) The case of compassionate appointment of Smti Rakhi Rani Dey w/o Late Shri S.R Dey, ex-ACIO-II (G) was considered by the Compassionate Appointment Committee in the light of the relevant Govt. instructions on the subject but the request could <sup>not</sup> be acceded due to non availability of Group 'D' post under compassionate appointment quota. Owing to instruction of optimization scheme of the Govt.

5) In June 2004, the applicant applied for appointment in IB on Compassionate grounds in place of her stepmother namely Smt. Rakhi Rani Dey to SIB Guwahati. Smti. Rakhi Rani Dey submitted her declaration certificate stating that she is not willing to be considered to

Compassionate appointment in IB and she has no objection if her son Shri Pulak Dey (the applicant) is appointed in IB in her place. During field enquiry it came to the notice that Smti. Rakhi Rani Dey had applied for registration of her marriage with one Shri Dhiren Rajbonshi to the Marriage Officer, State Registrar Office, Distt Dhubri, Assam on 27.3.2000 but the said marriage was not solemnized. However, Smti Dey is living together with Shri Rajbonshi and has given birth to a female child on 21.11.2003. Shri Pulak Dey is reportedly employed in private firm at Barpeta at monthly salary of Rs. 1,500. Besides, he is in possession of Kisan Vikas Patra of Rs. 1,00,000/-. The applicant is also having his two-room Assam type house in plot of land measuring half katha at Golakganj Distt Dhubri, Assam.

- 6) As per the Govt. instructions contained in DOP&T OM No. 14014/19/2002-Estt (D) dated 05.05.2003, if compassionate appointment to genuine and deserving cases is not possible in the first year due to non availability of regular vacancies, the prescribed Committee may review such cases to evaluate the financial conditions of the family to arrive at a decision as to whether a particular case warrants extension by one year, for consideration of compassionate appointment by the committee, subject to the availability of a clear vacancy within the prescribed quota. If on security by the Committee, a case is considered to be deserving, the name of such a person can be continued for consideration for one more year. Besides, the maximum time a person's name can be kept under consideration for offering compassionate appointment will be three years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the first and second year. After three years, if compassionate appointment is not possible to be offered to the applicant, his case will be finally closed, and will not be considered again.
- 7) The Competence Authority considered the request of the applicant in the light of DOP&T instruction dated 05.5.2003. Since the death of the Govt. servant occurred more than three years back, the case of the applicant attracts the provisions contained in DOP&T OM No. 14014/19/2002-Estt

(D) dated 05.05.2003 and therefore his request for compassionate appointment could not be acceded to. Accordingly, the applicant was apprised of the decision through SIB, Guwahati.

*S. L.*  
*S. D. D.*  
 Addl. Deputy Director,  
 Subsidiary Intelligence Bureau,  
 (MHA), Govt. of India,  
 Guwahati.

8) Aggrieved by his non appointment in IB on compassionate grounds the Applicant has filed OA No. 129/2006 before the Hon'ble Tribunal, Guwahati Bench and the Hon'ble CAT, Guwahati Bench vide order dated 02.06.2006 had directed the Department to consider the case of the applicant afresh for compassionate appointment with due application of mind and as per rules, regulations governing the subject and pass appropriate order communicating the same to the applicant within three months from the date of receipt of the order.

9) In compliance with the order of the CAT, Guwahati Bench dated 02.06.2006, a detailed and reasoned order was passed and communicated to the applicant intimating him that his request for appointment in IB on compassionate ground attracts the provision contained in DOP&T OM dated 05.5.2003 and therefore the same could nor be acceded to.

10) That with regard to the statement made in paragraph 1 of the OA, the respondents deny the contentions made therein. The reasoned and speaking order dated 24.7.2006 was passed in compliance with the Hon'ble CAT, Guwahati Bench order dated 02.06.2006.

11) That with regard to the statement made in paragraphs 2, 3, 4.1, 4.2 and 4.3 of the OA, the respondents offer no comment.

12) That with regard to the statement made in paragraph 4.4 of the OA, the respondents beg to submit that after the death of the Govt. Servant the mother of the applicant applied for compassionate appointment in the year 1999. The case of his mother for compassionate appointment was considered by the Compassionate Appointment Committee in the light of the relevant Govt. instructions on the subject and after due consideration her request could not be considered due to non availability of Group 'D'.

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Addl. Deputy Director,  
Subsidiary Intelligence Bureau  
(MHA), Govt. of India,  
Guwahati.

post under compassionate appointment quota owing to introduction of optimization scheme of the Govt. The applicant applied for compassionate appointment in IB in place of his mother in June 2004. Requisite documents necessary for processing his case was obtained from the applicant and thereafter his case was considered by the Competent Authority in the light of the DOP&T instructions on time limit for making compassionate appointment contained in OM dated 05.5.2003. His request for appointment IB could not be acceded to since the death of his father occurred more than three years back (in the year 1999 and he applied for compassionate appointment in the year 2004) attracting the provision contained in the said OM.

- 13) That with regard to the statement made in paragraph 4.5 of the OA, the respondent deny the contentions made therein. In compliance with the orders of the Hon'ble CAT, Guwahati Bench dated 02.06.2006 detailed speaking order was passed and communicated to the applicant thereby rejecting his claim.
- 14) That with regard to the statement made in paragraph 4.6 of the OA, the respondents deny the contentions made therein. The speaking order dated 24.7.2006 has been passed by the competent authority after due consideration of his case. The documents /papers as mentioned by the applicant in the corresponding para of the OA, were sought for by the Deptt, in order to process his case.
- 15) That with regard to the statement made in paragraph 4.7 of the OA, the respondents deny the contentions made therein and beg to rely and refer upon the statements made in the Brief history of the case.
- 16) That with regard to the statement made in paragraph 4.8 of the OA, the respondents beg to offer no comment.
- 17) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to submit that the competent authority in the light of the relevant Govt. instructions considered the request of the applicant for

compassionate appointment sympathetically. However, his request could not be acceded to since the death of Govt. servant occurred more than three years back.

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Addl. Deputy Director,  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India,  
Guwahati.

- 18) That with regard to the statement made in paragraphs 4.10 to 4.15 of the OA, the respondents deny the contentions made therein and beg to rely and refer upon the statements made above.
- 19) That with regard to the statement made in paragraph 5.1 to 5.9 of the OA, the respondents deny the contentions made therein and beg to rely and refer upon the statements made above and beg to submit that none of the grounds of the applicant is a good ground hence same is not sustainable in the eye of the law. The Hon'ble Tribunal may be pleased to dismiss the OA.
- 20) That with regard to the statement made in paragraphs 6 and 7 of the OA, the respondents beg to offer no comment.
- 21) That with regard to the statement made in paragraphs 8 and 9 of the OA, the respondents beg to submit that the relief sought by the applicant is totally misconceived and amount to misuse of provisions of law. The OA being devoid of any merits, the Hon'ble Tribunal may be pleased to dismiss the OA.

- 7 -

## VERIFICATION

I ..... B.N. Sen ..... aged

about ..... 54 ..... years ..... at ..... present ..... working ..... as

Addl. Dy. Director, SIB, Guwahati .....

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

1, 20, 21

are true

to my knowledge and belief, those made in paragraph

2 to 19

being matter of records, are

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

And I sign this verification this 22th day of March 2007 at Guwahati -

  
DEPONENT

Addl. Deputy Director,  
Subsidiary Intelligence Bureau,  
(MHA), Govt. of India,  
Guwahati.