

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

3

ORDERS SHEET

1. Original Application No.

2. Misc Petition No.

3. Contempt Petition No.

4. Review Application No.

21/06 in O.A 112/06

Applicant(s) Abhijit Saarma

Respondent(s) Abhijit Ghosh Dastidar & Ors

Advocate for the Applicant(s) Abdul Khaleque

Advocate for the Respondent(s) Cafe

Note of the Registry	Date	Order of the Tribunal
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This Contempt petition 12.9.2006
has been filed by the
Counsel for the petitioner
u/s 17 of the CAT Act, 1985
praying for punishment
to the Contemnor/Respondent
for non-compliance of
Judgement & Order dated
~~4.7.2006~~ 12.5.2006
passed by this Hon'ble Tribunal
in O.A 112/2006.

Laid before the
Hon'ble Court for further
order.

Ms. U. Das, learned Addl.C.G.S.C.
for the ~~the~~ alleged contemners submits
that the matter is under process.
Post on 31.10.2006.


Vice-Chairman

31.10.2006

Ms. U. Das, learned Addl.C.G.S.C.
submits that the representation that
had been directed to ~~have been fix~~ filed is received
only recently and they make take some
more time to disposed of the same.

Post on 5.12.2006. The M.P. will
be disposed of on that day.


Vice-Chairman

bb

5.12.06

In view of the order passed in
M.P. 108/06 post this matter on 5.1.07.


Vice-Chairman

18.1.2007

The order dated 12.05.2006 passed in O.A. 112/2006 by this Tribunal is for consideration of the Applicant's representation. This contempt petition is filed for non-compliance of the aforesaid order.

When the matter came up today Ms. U.Das, learned Addl. C.G.S.C. for the Respondent/Contemner submitted that orders of this Tribunal has been complied with and to that effect she has filed an order dated 11.01.2007 passed by the Respondent.

Considering the submission made by the learned counsel for the Respondent the C.P. is closed as complied with. A copy of the order dated 11.01.2007 shall be kept on record.

Vice-Chairman

/bb/

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL : ASSAM CIRCLE :
GUWAHATI - 781 001.

No.VIG/5/XI/2006

Dated Guwahati, the 11th Jan'2007

This is regarding a representation dated 23-05-2006 submitted by **Shri Bijit Sharma, son of Late Hem Chandra Sharma, Ex. SPM, Bamunbari SO under Dibrugarh Postal Division.**

2. The applicant submitted the representation in pursuance of the order dated 12-05-2006 of **Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No.112 of 2006.** The representation has been re-examined as follows :-

[i] **Late Hem Chandra Sharma** expired on 07-07-1998 leaving the following family members :-

- [a] Smt. Nirmali Sharma, wife;
- [b] Shri Pankaj Sharma, son;
- [c] Shri Bijit Sharma, son
- [d] Shri Dipak Sharma, son.

[ii] Further, **Smt. Nirmali Sharma**, wife of the deceased is working in the Department of Posts as **Head Sorting Assistant, Head Record Office** under RMS "GH" Division, Guwahati drawing monthly pay and allowances of Rs.12,227.00 approximately ;

[iii] On the demise of **Late Hem Chandra Sharma**, his family is also in receipt of family pension of [Rs.1290.00 + 50% of DP of Rs.1290.00 + 29% of DR of Rs.1290] ;

[iv] After the demise of **Late Hem Chandra Sharma**, the family has also got other post retirement benefits amounting to Rs.5,86,992.00, details of which are given below :-

DCRG	-	Rs. 1,37,494.00
Undrawn Pay & allowance	-	Rs. 3,60,537.00
[From 26-06-89 to 07-07-98]	-	
Cash equivalent to Leave Salary	-	Rs. 53,802.00
C.G.E.G.I.S.'80	-	Rs. 32,700.00
G.P.F.	-	Rs. 2,459.00
Total	-	Rs. 5,86,992.00

[v]. As submitted by the applicant, he had requested for compassionate appointment earlier on 24-04-2004 and 17-05-2005 also. No records of the same are available. Even if it is conceded that the applicant had made the request for the first time on 24-04-2004, that request would be 5 years 8 months 24 days after the death of his father, a very large gap of time.

[vi] The Hon'ble Supreme Court in its judgement dated May 4, 1994 in the case of Umesh Kumar Nagpal -Vs- State of Haryana and others [JT 1994(3) S.C. 525] has laid down the following principles for compassionate appointment.

- [a] Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground;
- [b] The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from the financial destitution and to help it to get over the emergency;
- [c] Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant, is legally impermissible.

[vii] The Hon'ble Supreme Court also in its judgment dated April 8, 1998 in the case of Auditor General of India and others -Vs- Ananta Rajeswar Rao [(1994) 1 SCC 192] has held that appointment is confined to the son or daughter or widow of the Government servant who dies in harness and who needs immediate

appointment on the grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread earner to relieve the economic distress of the member of the family.

[viii] The policy regarding compassionate appointment has been laid down by the Department of Personnel and Training [Government of India] vide its **Memo No.14014/23/99-Estt.(D) dated 03-12-1999**. A **Circle Selection Committee** is to go through all the requests received for compassionate appointment keeping in mind guidelines like financial status of the family and the need to provide sustenance in an emergent manner.

[ix] Accordingly, the request of the applicant was placed before the **Circle Selection Committee**. In its meeting held on 8-1-2007, the said committee arrived at a conclusion that since the family of the deceased employee was not in any financial hardship and since there was no emergent requirement to tide over an immediate crisis arising out of the death of the deceased, it was not a fit case for appointment on compassionate ground.

4. The recommendation of the **Circle Selection Committee** has been found appropriate and the representation of **Shri Bijit Sharma** for compassionate appointment in Department of Posts is rejected.



[M.S.Bali]
Chief Postmaster General,
Assam Circle, Guwahati - 781 001

Copy to :-

1. Shri Bijit Sharma, S/o Late Hem Chandra Sharma, Ex. SPM, Bamunbari SO under Dibrugarh Postal Division, Dibrugarh.

[Regd.] → [Postal Address] :- Sri Bijit Sharma,

VILLAGE - MUNIPAL,
P.O. Noonmati, Guwahati - 781 001.]

- [Regd.] 2. The Registrar, Central Administrative Tribunal, Rajgarh Road, Guwahati - 781 005.
- [Regd.] 3. Smt. Usha Das, C.G.S.C., CAT, Rajgarh Road, Guwahati - 781 005.
4. The APMG(Staff), O/o the Chief Postmaster General, Assam Circle, Guwahati - 781 001,
5. The Asstt. Postmaster General(Staff), Dibrugarh Region, Dibrugarh- 786001.
6. The Superintendent of Post Offices, Dibrugarh Division, Dibrugarh- 786001.

[Signature]
[M.S.Bali]
Chief Postmaster General,
Assam Circle, Guwahati - 781 001

12-01-08

लेन्ट्री अधिकारी अधिकारी
Central Administrative Tribunal

११.

गुवाहाटी न्यायालय
Guwahati Bench

Filed by
Sri Bijit Sarma

Shri
Abdul Khader
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI.

CONTEMPT PETITION NO. 21 OF 2006

In O.A. No. 112 of 2006.

IN THE MATTER OF :

A petitions under section 17 of the
Central Administrative Tribunal Act,
1985 praying for punishment to the
Contemner/ Respondents for noncompliance
of judgment & order dated 4-7-2004 passed
by this Hon'ble Tribunal in O.A. No. 112
of 2006,

-AND-

In the matter of :

Sri Bijit Sarma
Son of Late Hem Chandra Sarma,
(Ex-Sub-Post Master Bamunbari Sub Post Office)
Resident of Dakhin Ganesh Nagar, Basistha,
Guwahati.

Petitioner.

-Versus-

Sri Abhijit Ghosh Dastidar,
Chief Post Master General, Assam,
Guwahati-1,

Respondent/Contemner.

Contd....2/p.

The humble petition of the above
named applicant :

MOST RESPECTFULLY SHEWETH :

1. That, the applicant is the son of Late Hem Chandra Sarma who worked as Sub Post Master of Bamun Bani Sub Post Office. That while Sri Hem Ch. Sarma was working at Bamunbari he suddenly fell ill on 26.6.86 and he became bed ridden since then. The authority dismissed my father from service without giving a chance to defend him and ultimately he died on 7.7.98. That the O.A. No. 1288/2000 the Hon'ble Central Administrative Tribunal, quashed the dismissal order and directed that late Hem ch. Sarma be treated as if he is in service till his death and all the service benefit be paid to him.
2. The petitioner begs to state that they have spent all their belonging in the treatment of his bed ridden father and they had to bear the burden of huge debt. That after the reinstatement order of his late father the petitioner submitted a representation on 4.9.2001 praying for a job on compassionate ground and getting no reply from the respondents, the petitioner submitted another 2 representation on 24-4-04 and 17.5.2005. But the respondent did not gave any reply to those representation. Finding no way out the petitioner submitted an O.A. before the

Sri Bijit Sarma

Contd---3/p.

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Central Administrative Tribunal, Guwahati Bench
Guwahati which has registered as O.A. No. 112/06.

3. That the petitioner begs to state that the Hon'ble Central Administrative Tribunal Guwahati in disposing the said O.A. with direction to the Contemner/ Respondent to consider the representation to be filed by the petitioner within two weeks. The Hon'ble Tribunal further directed the Contemner to consider the representation filed by the petitioner and pass a speaking order within 2 months from the date of receipt of such representation. Copy of the order of the Tribunal is annexed herewith and marked as Annexure--"A".
4. That as per the direction of the Hon'ble Tribunal, the petitioner filed a representation on 23.5.06 before the Chief Post Master General (Contemner) on 25.5.06 (copy of the said representation is annexed herewith and marked as Annexure- "B")
5. That the applicant begs to submit that the Contemner received the Hon'ble Tribunal's order and representation on 25.5.06 but until now the Contemner have not taken any steps to carry out the said order, although the Hon'ble Tribunal directed him to consider the representation and pass a speaking order on the representation within two months.

Contd---4/p.

Scri: Bijit Barma

6. That the applicant begs to state that inspite of clear direction from the Hon'ble Tribunal the Contemner/ respondents have deliberately not complied with the judgment & order dated 12.5.06
7. That your applicant begs to state that the Contemner/ respondents has shown utter disregard, disobedience to the Hon'ble Tribunal and had not cared to carry out the judgment and order dated 12.5.06 , passed by this Hon'ble Tribunal and this amounts to serious~~s~~ contempt of Court. And as such he deserve the punishment for disobedience disregard and disrespect shown to the Hon'ble Tribunal by not implementing the judgment order dated 12.5.06 passed in O.A. No. 112/06.
8. That the applicant begs to state that in spite of the clear order from this Hon'ble Court the Contemner/ respondents, deliberately neglected to implement the order passed in O.A. No. 112/06.
9. That your applicant submits that unless the respondent/ contemners are held up in a case of contempt of Court, the Contemner will not implement the judgment and order dated 12.5.2006 in O.A. No. 112/06 passed by this Hon'ble Tribunal, and as such it is a fit case where the Contemner may be directed to appear before this Hon'ble Tribunal to explain as to why they have not yet

Sri Bijit Barma

Contd--5/p.

implemented the judgment & order dated 12.5.2006 passed in O.A. No. 112/06.

10. That your applicant submits that the Contemner / respondents deliberately and intentionally had disobeyed and dishonoured the judgment and order passed by this Hon'ble Court on O.A. No. 112/06 and hence he is liable to be punished under the provision of contempt of Courts proceeding.
11. That your applicant submits that he has filed this petition bonafide for the ends of justice.

Under the facts and circumstances stated above it is therefore respectfully prayed that your Lordship may be pleased to admit this petition and issue contempt notice to the Contemner/respondents to show cause as to why he should not be punished under Section 17 of the Central Administrative Tribunal Act, 1985 or pass such other order or orders as the Hon'ble Tribunal deem fit and proper.

Further it is also prayed that in view of the deliberate disrespect and disobedience to carry out the Hon'ble Tribunal's order the Contemner should

Sri Bijit Banerjee

be asked to appear in person before this Hon'ble Tribunal to explain, why he should not be punished for contempt of Court.

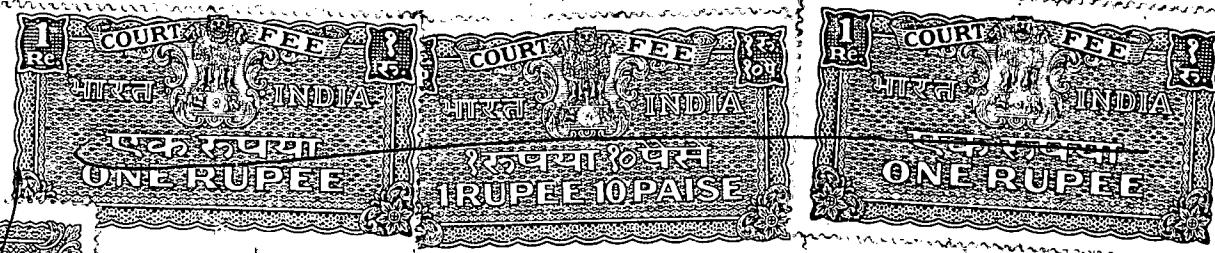
And for this act of kindness your humble petitioner as in duty bound shall ever pray.

DRAFT CHARGE

The applicant aggrieved for non-compliance of the Hon'ble Tribunal's Judgment & Order dated 12.5.2006 passed in O.A. No. 112/2006. The Contemner/respondents have willfully, deliberately violated the judgment & order passed in O.A. No. 112/2006 by not implementing the direction contained therein till date. Accordingly the Contemner/respondents are liable for contempt of Court proceeding and severe punishment thereof as provided under the law. He may also be directed to appear in person and reply the charge of this Hon'ble Court.

.....Affidavit- 7/p.

Sri Brijit Sarma



A F F I D A V I T

I, Sri Nirmali Sarma, Wife of Late Hem Chandra Sarma, aged about 26 years, a resident of Dakhin Ganesh Nager, Basistha, Guwahati, District- Kamrup, do hereby solemnly affirm and state as follows :-

- 1) That, I am the contempt petitioner in the above mentioned contempt petition and as such I am acquainted with the facts and circumstances of the case.
- 2) That, the statements made in paragraphs 1 to 5 are true to my knowledge as those are matter of records and true to my informations derived therefrom which I believe to be true and the rests are my submissions before this Hon'ble Tribunal.

This is true to my knowledge.

And I sign this affidavit on this the 30th day of August, 2006 at Guwahati.

Sri Nirmali Sarma

Identified by me,

Advocate
30.8.06
Advocate

Deponent

Solemnly affirmed and declared before me by the deponent who is identified by Sri A. Khaleque, Advocate on this the 30th day of August, 2006 at Guwahati.

Advocate
30.8.06
Advocate
Magistrate, Guwahati.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 112 of 2006.

Date of Order: This, the 12th Day of May 2006.

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

Sri Bijit Sarma
S/o Late Hemchandra ~~Kalita~~ Sarma
Ex-Postmaster
Samundbari Sub-Post Office
Tinsukia Division
President of Village: Motaria
Nongonmati
Dist: Kamrup.

.....Applicant.

By Advocate Md. Abdul Khaleque.

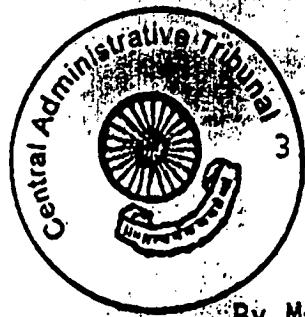
- Versus -

1. Union of India
Represented by the Secretary
Department of Post
Government of India
New Delhi.

2. The Post Master General
Assam Region, Dibrugarh
P.O: Dibrugarh
Assam.

Superintendent of Post Offices
Tinsukia Division
Tinsukia.

.....Respondents.



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

ORDER (ORAL)

SACHIDANANDAN, K.V. (V.C.) :

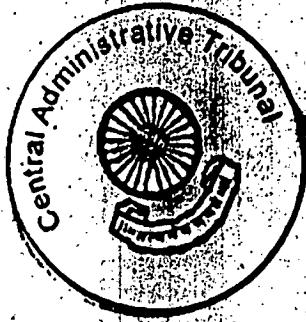
The case of the applicant is that his father while working as Sub-Postmaster under the Superintendent of Post Offices, Tinsukia Division fell ill in the year 1986 and subsequently suffered from paralysis and became bedridden.

[Handwritten signature]

59 9
In the year 1989 he was dismissed from service for willful absence. The matter was taken up before this Tribunal in O.A. No.288 of 2000 wherein this Tribunal vide judgment and order dated 4.7.2001 had set aside the order of dismissal and directed the respondents to treat the deceased to be in service till his death and to give all the consequential and pensionary benefits within a time frame. The applicant herein immediately thereafter on 4.9.2001 made a representation to the respondents for giving compassionate appointment, which was not registered, according to the applicant. Subsequently also on 24.4.2004 and 17.8.2005 applicant has made further representations for considering him for compassionate appointment since his father died while he was in service as per order of the Tribunal. Nothing transpired thereafter. Aggrieved by the said inaction of the respondents, the applicant has filed this original application seeking the following reliefs:-

8.(1) The respondents may be directed to appoint the applicant in any post as a special case for illegal dismissal of his father, on compassionate ground, by relaxing the normal Rules."

2. Heard Md. Abdul Khaleque, learned counsel for the applicant. Ms. U. Das, learned Addl.C.G.S.C. represented the respondents. Counsel for the applicant submits that he will be satisfied if a direction is issued to the respondents to consider and dispose of the representations and pass appropriate orders within a time frame. In the



interest of justice, this Tribunal is of the view that such direction will suffice the ends of justice. Ms. U. Das, learned Addl. C.G.S.C. submits that the Chief Post Master General is the concerned authority to consider such matter. Therefore, the applicant is directed to make a comprehensive representation to the said authority within two weeks from today and if such representation is received, the said authority or any other competent authority, shall consider and dispose of the same along with the pending representations and pass speaking order therein and communicate the applicant within two months from the receipt of such representation.

The Original Application is disposed off as above.

In the circumstances, there is no order as to costs.

sd/VICE CHAIRMAN



Date of Application : 18.5.06
Date on which copy is ready : 23.5.06
Date on which copy is delivered : 23.5.06
Certified to be true copy

N. Gomes 23.5.06
Section Officer (Jdcl)
C. A. T. Guwahati Bench
Guwahati-5

23/5/06

27/5/06

Annexure B
5.

Regd A/D

23.5.06

To,

The Chief Post Master General,
Assam Region, Magdoot Bhawan
P.O. Guwahati-1.

Sub :- Appointment on compassionate grounds.

Ref :- Contempt case No. 58/2001 in O.A.
No. 288/2000.

Sir,

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

That my father worked as a sub Post master at Bamunbari sub-Post office under Tinsukia Division.

That Sir, my father late Hem ch. Sarma fell ill and bed ridden since 1986 and he was dismiss from service without giving him a chance to defend him and ultimately he died on 7.7.98. That in O.A. No. 288/2000 the Hon'ble Central Administration Tribunal, Guwahati, quashed the dismissal order and directed that late Hem ch. Sarma be treated as if he was in service till his death and all the service benefit be paid to his family.

That sir, the petitioner and his widow mother was to bear the burden of huge debt which was taken for the treatment of his father Hem ch. Sarma and the family is running under acute financial hardship.

Contd--2/p.

That after thereinstatement order passed by the Hon'ble Central administrative Tribunal on 4-7-2001, the petitioner filed a petition before the supdt of Post Office at Dibrugarh and Tinsukia for appointing him in a post according to his qualification on compassionate ground. The petitioner getting no reply from the authorities submitted another 2 (two) representation on 24-4-04 and 17-5-2005 for appointing him on compassionate ground. But all those representations are not responded by the authority and no reply has been received so far.

That sir getting no reply from the authorities the petitioner filed a petition before the Hon'ble Central Administrative Tribunal, Guwahati for redressal of his grievances. The Tribunal by their order dated 12.5.06 directed the petitioner to file a representation before your good office stating all these matters in details. And as per the direction of the Hon'ble Tribunal I am submitting this petition for favour of your kind consideration necessary order.

I now therefore request your good office kindly to consider my case sympathetically and be further pleased to appoint me in any job on compassionate ground relaxing the normal rules.

Yours faithfully,
Sri Bijit Sarma
23/5/06
(Sri Bijit Sarma)
Vill.- Mataria
P.O. Noonmati, Guwahati-21
Dist- Kamrup (Assam).

7 order from CAT
7 rep. dt. 4.9.2001
7 rep. dt. 24.4.04
7 rep. dt. 17.8.05

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Senders Name _____
and Address _____

DATE
STAMP

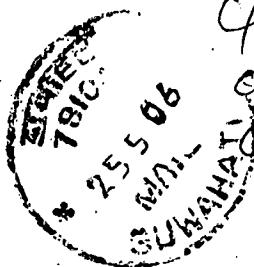
To

Shri Bejjet Sarmia

40 Nirmali Sarmia

Opposite Rockery, Bhowali,

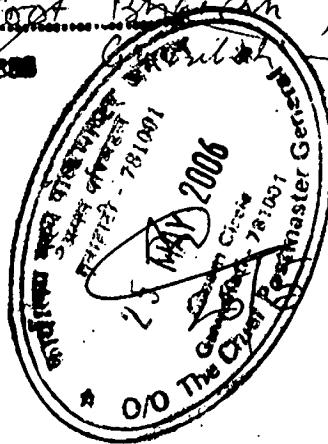
781071.



Certified to be true
by

ACKNOWLEDGEMENT

NAME Mr. Chiraj RKG, Assam Circle
ADDRESS Moghadat Bhawan, Panibazar
SIGNATURE ADURB



4.9.01

To,

The Supdt, of Post Offices
Dibrugarh Division
P.O. Dibrugarh.

Sub :- Appointment on compassionate grounds.

Ref :- Contempt Case No. 58/2001 in O.A.
No. 288/2000.

sir,

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

That Sir, my father late Hem ch. Sarma was lying ill and bed ridden since 1986 and he was dismiss from service without gicing him a chance to defend him and ultimately he died on 7.7.98. That in O.A. No. 288/2000 the Hon'ble Central Administration Tribunel, Guwahati, quashed the dismissal order and directed that late Hem ch. Sarma be treated as if he was in service till his death and all the service benefit be paid to his family.

That Sir the petitioner and his widow mother was to bear the burden of huge debt which was taken for the treatment of his father Hem ch. Sarma and the family is running under acute financial hardship.

It is therefore prayed that your honour would be pleased to appoint the petitioner in any Post as per his qualification on compessionate grounds.

And for this kind grant o f prayer your petitioner shall ever pray.

Yours faithfully,

Sdf

(Sri Bijit Sarma)

Vill-Basistha , Guwahati-28
P.S. Basistha, Dist-Kamrup.

Certified to be true copy
BBG
BBG

To,

Date : 17.8.2005

The Superintendent of Post Offices,
Dibrugarh Division,
P.O. Dibrugarh.

60

Sub :- Prayer for appointment on compassionate
grounds.

Ref :- CAT's judgment dt. 4.7.2001 in O.A.
No. 288/2000.

Sir,

Most humbly and respectfully I beg to state that my husband Late Hem Ch. Sarma was dismissed from service in the year 1989 and the said order of dismissal was quashed by the Central Admn. Tribunal Guwahati. The said Tribunal also directed the authority to treat my husband to be in regular service and directed to pay all the benefit as per rules.

That Sir my husband was bedridden from 1986 to 7.7.1998 and he died on 7.7.1998 and I have to spent huge amount of money for his treatment and I had to borrow those amount from others. That Sir, I am running my days with much financial hardship.

That Sir, my son Sri Bijit Sarma who has passed the Matriculation Examination is sitting idle at home without doing any work.

I now therefore request your honour to help the poor lady by appointing her son Sri Bijit Sarma in any job as per his qualification or compassionate grounds.

Yours faithfully,

Smt. Nirmali Sarma
Vill- Madhgheria, P.S. Nonmati
Guwahati-21.

Certified to be true copy
Nirmali Sarma
Advocate

To,

Date : 17.8.2005

The Superintendent of Post Offices,
Dibrugarh Division,
P.O. Dibrugarh.

Sub :- Prayer for appointment on compassionate
grounds.

Ref :- CAT's judgment dt. 4.7.2001 in O.A.
No. 288/2000.

Sir,

Most humbly and respectfully I beg to state that my husband Late Hem Ch. Sarma was dismissed from service in the year 1989 and the said order of dismissal was quashed by the Central Admin. Tribunal Guwahati. The said Tribunal also directed the authority to treat my husband to be in regular service and directed to pay all the benefit as per rules.

That Sir my husband was bed ridden from 1986 to 7.7.1998 and he died on 7.7.1998 and I have to spent huge amount of money for his treatment and I had to borrow those amount from others. That Sir, I am running my days with much financial hardship.

That Sir, my son Sri Bijit Sarma who has passed the Matriculation Examination is sitting idle at home without doing any work.

I now therefore request your honour to help the poor lady by appointing her son Sri. Bijit Sarma in any job as per his qualification on compassionate grounds.

Yours faithfully,

Smt. Nirmali Sarma
Vill- Madhgheria, P.S. Noonmati
Guwahati-21.

Certified to be true
Dewar
SAR