

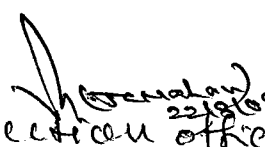
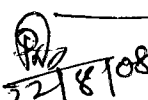


CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH;

1. Original Application No. _____
2. Misc Petition No. 107/08
3. Contempt Petition No. _____
4. Review Application No. _____
5. Execution petition No 7/08 in O.A 171/06

Applicant(S) Amarjyoti Lahkar VS- Union Of India & Ors

Advocate for the Applicant(S) M. Chanda, S. Nath, Mrs. U. Datta

Advocate for the Respondent(S) CGSC

Notes of the Registry	Date	Orders of the Tribunal
<p><u>E. Petition</u> This Misc Petition has been filed by the counsel for the petitioner u/r 24 of the CAT (Procedure) Rule, 1987, praying for a direction upon the Respondents for implementation of the Judgement and order dated 04.5.2007 passed in O.A No. 171/06</p> <p>Laid before the Honble Court for further orders.</p> <p> Section Officer</p> <p> 22/8/08 21.3.9.08</p> <p>Pl. issue <u>Notice</u> to the Respondents</p>	<p>03.09.2008</p>	<p>M.P.No.107 of 2008. has filed for execution of the final order dated 04.05.2007 rendered in O.A.No.171 of 2008. A copy of this M.P. No.107 of 2008 has already been served on Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents.</p> <p>This M.P.No.107 of 2008 is registered as an <u>Execution Petition</u> and a renumbering be given.</p> <p>Issue notice to the Respondents at the cost of the Applicant, to file their reply by 6th October 2008. Mr. S. Nath, learned counsel appearing for the Applicant undertakes to file requiring postages/cost of the postages by to- morrow.</p> <p>Call on 06/10/08.</p> <p> (Khushiram) Member(A)</p> <p> (M.R. Mohanty) Vice-Chairman</p>

lm

Notices along with
order dated 3/9/08
sent to D/Section
for issuing to 06.10.2008
respondents by
regd-A/D post at
the cost of applicant.
(6/9/08. D/No-393741)
3/9/08 DT=9/9/08.

E.P. 7 of 08(O.A.171 of 06)


None appears for the Applicant nor for
the Respondents. No reply has yet been filed
by the Respondents.

Call this matter on 10.11.2008 for
order.

Send copies of this order to the
Applicant and to the Respondents in the
address given in the O.A.

3.10.08

The Misc petition
No.107/08 is renumbered
in E.P. No.7/08, vide
order dt. 3.9.08. 10.11.2008
6-11-2008



(S.N. Shukla)
Member(A)



(M.R. Mohanty)
Vice-Chairman

No reply has yet been filed by the
Respondents.

Call this matter on 16.12.2008
awaiting reply from the Respondents.

Send copies of this order to the
Respondents, requiring them to file their
reply by the date fixed.


(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkm

6-11-08

Copy of The order
dt.6.10.08 prepared &
Send to D/Section for
issuing of the applicant
and respondents.
Vide D.No-4292 to 4296.
Dt-6.11.08.

10.10.11.08

Pl. Send copies of this order to
the Respondents requiring them
to file their reply by the date fixed.

-3-
EP 7/08(0A171/06)

Copies of order
dated 10/11/08
send to D/Sec.
for issuing to
respondents, by
post.

D/No-4496 to 4500
10/11/08. DT- 24-11-08.

Reply not filed.

20
15.12.08.

18.12.08
filed by
respondents.
copy served.

Di-
18/12/08
w/s filed.

22
2.1.09

15.1.09
Rejoinder submitted
copy under taking
given for service.

Di-
15/1/09

Notice duly served
on R-1, 2, 3, 4,

22/1/09

16.12.2008

Mr. G. Baishya, learned Sr. Standing
counsel appearing for the Respondents
undertakes to file reply to the E.P.No.7 of 08,
in course of the day.

Call this matter on 9th January, 2009.

(S.N.Shukla)
Member(A)

(M.R. Mohanty)
Vice- Chairman

lm

09.01.2009

Mr. S. Nath, learned counsel appearing
for the Applicant undertakes to file rejoinder
in course of the day. He is permitted to
serve the copy of the same on the
Respondent's side by 13.01.2009.

Call this matter on 22.01.2009.

(M.R. Mohanty)
Vice-Chairman

lm

22.1.09 Bench is not available
List on 17.2.09.

la
co.

17.2.09 Bench is not available
List on 23.3.09.

la
co.

W/S and rejoinder
filed by the parties.
~~Respondents~~

23.03.2009

Mr. S. Nath, learned Counsel appearing for the Applicant is present. Mr. G. Baishya, learned Sr. Standing Counsel for the Union of India, is on accommodation.

20.3.09

In this case written objection from the Respondents and rejoinder from the Applicant have already been filed.

Call this matter on 29.04.2009.

Send copies of this order to the Applicant and to the Respondents in the addresses given in the O.A.

(M.R. Mohanty)
Vice-Chairman

24.3.09 Mm 1448 to 1453

At 27.3.2009

nkm.

28.4.09

Memo of Appearance
filed by Mr. G. Baishya
Sr. CGSC for the Respondents

28/4/09

29.04.2009 In this case objection to the Execution petition and the rejoinder thereto have already been filed. On the prayer of learned counsel appearing for both the parties, call this matter tomorrow.

(M.R. Mohanty)
Vice-Chairman

lm

30.04.2009

Call this matter analogously with O.A.78 of 2009 on 17.06.2009.

(M.R. Mohanty)
Vice-Chairman

/bb/

E.P. No. 7/2008 (O.A. No. 171 of 2006)

17.06.2009

On the prayer of Mr.G.Baishya, learned Sr. Standing counsel for the Govt. of India, call this matter on 20.07.2009 for production of records.



(M.R.Mohanty)
Vice-Chairman

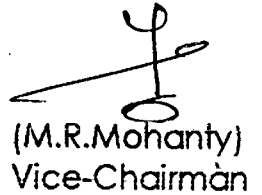
/bb/

20.07.2009

On the prayer of Mr.S.Nath, learned counsel for the Applicant, call this matter on 12.08.2009.



(M.K.Chaturvedi)
Member (A)

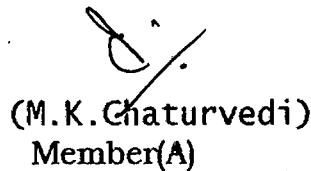


(M.R.Mohanty)
Vice-Chairman

/bb/

12.08.2009

Call this matter on 16.09.2009 along with O.A.No.171 of 2006.



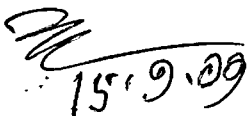
(M.K.Chaturvedi)
Member(A)



(M.R.Mohanty)
Vice-Chairman

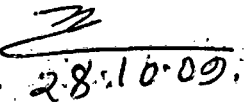
/lm/

Rejoinder filed.



15.9.09

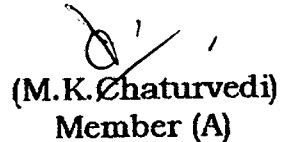
Rejoinder filed.



28.10.09.

16.09.2009

Call this matter on 29.10.2009.



(M.K.Chaturvedi)
Member (A)

/lm

PTO

29.10.2009

Respondents, vide order dated 17.06.2009 were directed to produce the records, which order has not yet been complied with.

Mrs.M.Das, learned Sr. C.G.S.C. seeks time to comply with said order.

List on 17.11.2009 along with O.A. 78 of 2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

the case is ready
for hearing.

17.11.2009

On the request of Mrs. M. Das, learned Sr. CGSC for respondents with consent of Mr. S. Nath, learned counsel for applicant, case is adjourned.

List this matter on 26th November, 2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

the case is ready
for hearing.

26.11.2009

List this matter on 05.01.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

26.11.2009

List this matter on 05.01.2010.


(Madan Kumar Chaturvedi)
Member (A)


/pb/

E. P. No. 07/2008

29

03.12.2009 List this case on 14.12.2009 for
hearing.


Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkm

14.12.2009

On the request of proxy counsel Mrs.

U. Dutta, case is adjourned to 20.01.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

20.1.2012

Mentioned has been made by
proxy counsel of Mrs. M.Das, learned
counsel appearing for the Respondents to
adjourn this matter.

List the matter on 8.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

08.02.2010

Ms U. Dutta, learned counsel
states that she will file vakalatnama in
this case as Mr S.Nath, is no more
dealing with this case. Mr M.Das,
learned Sr.C.G.S.C is present for the
respondents.

List on 24.2.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

24.2.2010

Heard learned counsel for both
sides. Hearing concluded. Judgment
reserved.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

23

E.P. 7/08 (In O.A.171/2006)

05.03.2010

In view of the order passed in
O.A.78/09 this E.P has become infructuous
and accordingly dismissed as infructuous.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

2 AUG 2008

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Rule 24 of Central Administrative Tribunal

(Procedure) Rule 1987)

Execution petition No. 7/08

M. P. No. 107 /2008

In O.A No. 171 /2006

Shri Amarjyoti Lahkar

-Versus-

Union of India & Ors.

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4.	II	Copy of the judgment and order dated 04.05.2006.	8-14
5.	III	Copy of the representation dated 14.05.07	15-16
6.	IV	Copy of the representation dated 14.09.07	-17-
7.	V	Copy of the memorandum dated 21.05.2008.	18-19

Received
Granting Authority
22.08.08

Filed By:

Date: -

Advocate

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 AUG 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Rule 24 of Central Administrative Tribunal
(Procedure) Rule 1987)

E.P. No. 7/08

M.P. No. 107 /2008

In O.A. No. 171/2006

In the matter of: E.P. No. 7/08

M. P. No. 107 /2008

In O. A. No. 171/2006

Shri Amarjyoti Lahkar

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-And-

In the matter of:

Non-compliance of Hon'ble Tribunal's
judgment and order dated 04.05.2007
passed in O.A. No. 171/2006.

-And-

In the matter of:

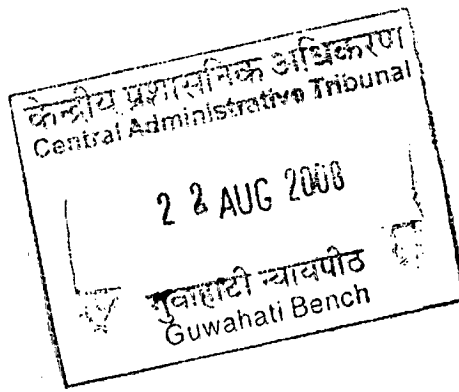
An application under Rule 24 of Central
Administrative Tribunal (Procedure)
Rule 1987, praying for a direction upon
the Respondents for implementation of
the judgment and order dated
04.05.2007 passed in O. A. No. 171/2006.

-And-

In the matter of:

Amar Jyoti Lahkar.

Filed by the applicant
through: S. K. S. S. S.
Advocate
22/08/2008.



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

-----Applicant.

-AND-

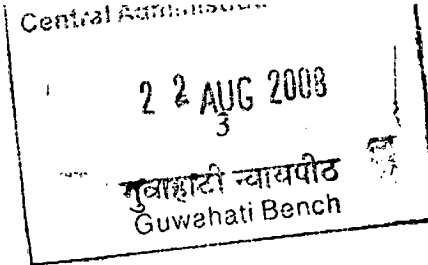
1. The Union of India
Represented by the Secretary to the
Government of India,
Revenue Department,
Ministry of Finance,
New Delhi - 110001.
2. The Chief Commissioner
Central Excise,
Morello Compound
Shillong - 793001.
3. The Commissioner
Customs & Central Excise,
Morello Compound
Shillong - 793001.
4.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

..... Respondents.

The applicant above named most respectfully begs to state that -

1. That the applicant approached this Hon'ble Tribunal through O.A. No. 171/2006 praying for a direction upon the respondents for appointment of the applicant on compassionate ground with immediate effect in the post of Sepoy/LDC on the ground that father of the applicant is missing w.e.f. 05.01.1993, while in service.
2. That the respondents in para 8 of the written statement in O.A. No. 171/2006 submitted before this Hon'ble Tribunal that applicant is placed

Amar Jyoti Lahkar.



28

in serial number six in the waiting list for compassionate appointment and his name will be considered in due time as per policy/rules. However, Hon'ble Tribunal on perusal of materials on record and after hearing the Counsel of the parties was pleased to dispose of the O.A. No. 171/2006 on 04.05.2007 with the direction as follows:

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

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

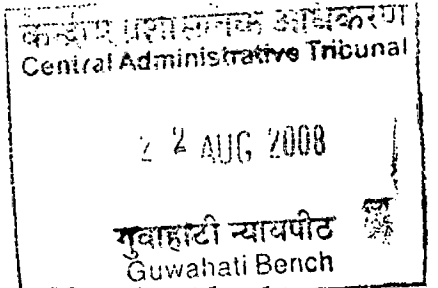
Copy of the list of applicants pending for appointment on compassionate ground and the judgment and order dated 04.05.2006 is enclosed herewith and marked as Annexure- I and II respectively.

3. That the applicant submitted a representation on 14.05.2007 addressed to the Chief Commissioner, Customs and Central Excise, Shillong Zone enclosing therewith a copy of the judgment and order dated 04.05.2007 in O.A. No. 171/2006. In his representation dated 14.05.07 applicant prayed for consideration of his case sympathetically and to appointment him to the post of Sepoy/LDC on compassionate ground. He submitted reminder/representation on 14.09.2007 for consideration of his appointment in any vacancy of LDC/Sepoy on compassionate ground.

Copy of the representation dated 14.05.07 and 14.09.07 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- III and IV respectively.

4. That it is stated that applicant while waiting for his appointment on compassionate ground in terms of the direction passed by this Hon'ble

Amar Jyoti Lahkar.



Tribunal in O.A. No. 171/2006, the respondent No. 4 vide his memorandum bearing No. II (31)4/ET-III/2007/10662-67 dated 21.05.2008 appointed one Shri Raju Bordoloi to the post of Sepoy. It is stated that name of Shri Raju Bordoloi was not in the list of compassionate appointment issued by the respondents but he has been given appointment to the post of Sepoy on temporary basis whereas applicant was placed at Sl. No. 6 of the list of compassionate appointment and he is a legitimate expectant for appointment on compassionate ground. But the respondent No. 4 without considering the direction passed by this Hon'ble Tribunal in O.A. No. 171/2006 and also without following the list prepared by the respondents for compassionate appointment has appointed Shri Raju Bordoloi to the post of Sepoy. It is also stated by the applicant that he has come to learn from a reliable source that interview has been conducted by the respondents at Shillong and Silchar to appoint to the post of Sepoy on compassionate ground whereas the applicant after being found suitable in the interview held on 28.10.2002 and on 29.10.2002 has been placed at Sl. No. 6 of the list for Compassionate appointment. As such in spite of having vacancy of Sepoy/LDC the respondents have denied the applicant appointment to the post of Sepoy/LDC on compassionate ground in violation of the direction passed by the Hon'ble Tribunal in O.A. No. 171/2006.

Copy of the memorandum dated 21.05.08 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- V.

5. That the applicant begs to state that this Hon'ble Tribunal in the judgment and order dated 04.05.2007 in O.A. No. 171/2006, directed the respondents to consider the case of the applicant as and when vacancy arises and communicate the same to the applicant without fail. However, the respondents without complying the direction passed by this Hon'ble Tribunal on 04.05.2007 in O.A. No. 171/2006 appointed Shri Raju Bordoloi in the vacant post of Sepoy vide memorandum dated 21.05.2008. As such the respondents have willfully violated the judgment and order dated 04.05.2007 in O.A. No. 171/2006. Therefore, finding no other alternative the applicant is approaching before this Hon'ble Tribunal for further

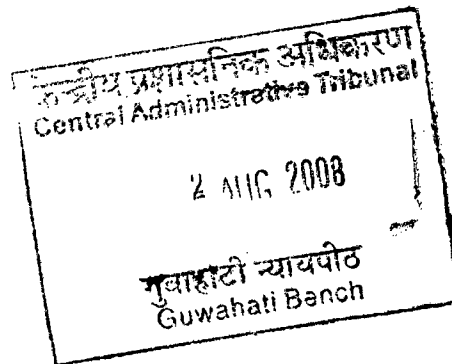
Amar Jyoti Lahkar.

direction upon the respondents for compliance of the order dated 04.05.2007 in O.A No. 171/2006 of this Hon'ble Tribunal and to pass further order under Rule 24 of Central Administrative Tribunal (Procedure) Rule, 1987 for compliance of the order of the Hon'ble Tribunal.

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

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to direct the respondents to implement the order dated 04.05.2007 passed in O.A. No. 171/2007 with immediate effect and further be pleased to pass any other order or order as deem fit and proper by the Hon'ble Tribunal.

And for this act of kindness applicant as in duty bound shall ever pray.



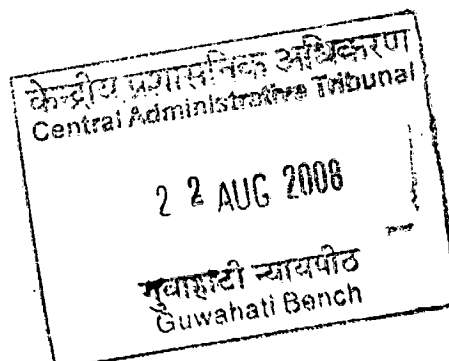
Amar Jyoti Lahkar.

VERIFICATION

I, Shri Amarjyoti Lahkar, S/o- Gokul Chandra Lahkar, aged about 24 years, resident of Vill & P.O- Sanekuchi, Dist- Nalbari, Assam, do hereby verify that the statements made in Paragraph 1 to 6 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 21st day of August, 2008.

Amar Jyoti Lahkar.



ANNEXURE - I
LIST OF APPLICANTS PENDING FOR APPOINTMENT ON COMPASSIONATE GROUNDS IN SHILLONG ZONE.

Sl. No.	Name of the Applicant	Name of the deceased / Medically retired Govt. Servant Shri/Smt.	Date of application	Date of Birth of the applicant	Educational qualification.	Whether SC/ST/OBC/General	Name of the post to which recommended for appointment, if selected.	Remarks
								Still Pending
1.	Shri/Smt. Sobha Joshi	W/o An Narayan Joshi, Sepoy	05.01.97	03.01.73	Cl. VIII	GN	Sepoy	- do -
2.	Pranay Kar	S/o F. C. Kar, Superintendent	03.10.97	19.06.73	Cl. VIII	GEN	Sepoy	- do -
3.	Manjit Narzary	S/o F. C. Kar, Superintendent	18.11.97	01.02.72	Cl. IX	ST	Sepoy	- do -
4.	Bikash Ch. Das	W/o Manu Ch. Narzary, Driver	20.02.98	06.03.79	Cl. IX	SC	Sepoy/LDC	- do -
5.	Baneni Das	S/o Eiren Ch. Das, Sepoy	18.05.98	03.03.64	H.S.L.C	GEN	LDC	- do -
6.	Amarjyoti Lahker	W/o Babul Das, Inspector	24.04.98	31.12.63	Cl. IX	GEN	Sepoy	- do -
7.	Reena Sunar	S/o Gokul Ch. Lakhar, Sepoy	04.05.99	21.01.67	Cl. VIII	GEN	Sepoy	- do -
8.	Saratini Pyrtuli	W/o Budhi Raj Sunar, Sepoy	02.07.99	17.03.61	H.S.L.C	ST	LDC	- do -
9.	Koj Yaring	Str/o Smt. R. Fyrtuh, AAO	13.12.99	03.04.73	Cl. IX	ST	Sepoy	- do -
10.	Rivindang Lamare	W/o Koj Tai, Superintendent	12.01.2000	02.05.77	H.S.L.C	ST	L.D.C. / Driver	- do -
11.	Jimu Snowa	S/o F. Pyngrope, Driver	05.01.2000	16.11.80	Cl. X	ST	Sepoy	- do -
12.	Phibonina Wahlang	S/o K. Snowa, Sepoy	15.09.2000	19.03.71	Cl. VIII	ST	Sepoy	- do -
13.	M. Wahlang	W/o K. Limol, T. A	18.10.2000	09.06.67	H.S.L.C	ST	Gr. 'C'	- do -
14.	Manmoni Gohain	W/o Bhasnigi Lyndoh, Sepoy	08.11.2000	23.08.64	Cl. IX	GEN	Sepoy	- do -
15.	Ronodhir Sutradhar	W/o Mileswar Gohain, Sepoy	17.11.2000	30.11.71	H.S.L.C	SC	Gr. 'C' or 'D'	- do -
16.	Jyotirmoy Saha	S/o Jyoti Prabhakar Sutradhar, Sepoy	14.02.2001	20.02.73	Cl. X	GEN	Gr. 'D'	- do -
17.	Manash Jyoti Borah	S/o J. M. Saha, A. O.	26.02.2001	11.03.75	H.S.L.C	ST	Gr. 'C'	- do -
18.	Mohan Basumatary	S/o Ananda Ch. Bora, A. C.	29.03.2001	01.04.79	H.S.L.C	ST	LDC	- do -
19.	Atupanjali Edrah	S/o Deben Basumatary, LDC	03.04.2001	18.03.82	B.A (1 st year)	ST	Gr. 'C'	- do -
20.	Kabita Lama	C/o Asanta Borah, A.C	30.04.2001	17.11.71	Cl. VIII	GEN	Sepoy	- do -
21.	Thorichom Epm Singh	W/o Dil Bahadur Lama, LDC	13.06.2001	03.02.82	P.U.	GEN	Gr. 'C'	- do -
22.	Shirin Paul	S/o T. Bibisl Singh, Driver	31.07.2001	21.10.83	H.S.L.C	GEN	Gr. 'C' or 'D'	- do -
23.	Rupa Bora	S/o G. C. Paul (Rtd)	07.09.2001	21.02.67	Cl. VIII	GEN	Sepoy	- do -
24.	Mrs. Bickmal	W/o Chanda Ram Bora, Hav.	08.10.01	01.03.68	P.U.	ST	Gr. 'C' or 'D'	- do -
25.	Anjali Dehing	W/o Dalsuanthang, Inspector	21.01.02	31.03.65	VII passed	OBC	Sepoy	- do -
26.	Zonunmaw	W/o Biju Deh	27.03.02	02.08.69	Cl. VII	ST	Sepoy	- do -
27.	Lalruntlaci	W/o Lalruntlaci, Sepoy	27.03.02	07.05.69	H.S.L.C	ST	LDC	- do -
28.	Maya Chettri	W/o L. Z. Ralte, Driver	19.04.02	07.03.70	Cl. VIII	GEN	Sepoy	- do -
29.	Suchitra	W/o M. Chettri, Sepoy	08.07.02	30.09.78	Cl. IX	GEN	Sepoy	- do -
30.	Bharati Sharma	Str/o N.C. Deb, Sepoy	29.07.02	04.01.70	Cl. IX	GEN	Sepoy	- do -
31.	Smt. Ratna Das	W/o Chitpa, Sepoy	12.08.02	04.09.68	B.A.	GEN	UEC	- do -
32.	Manjit Das	W/o Sanjay Das, Inspector	04.09.02	01.09.65	H.S.L.C	GEN	LDC/Sepoy	- do -
33.	Smt. Anima Dey	W/o Kiranji Pathak, Sepoy	16.08.02	26.06.55	H.S.L.C	GEN	LDC/Sepoy	- do -
		W/o Safal Ch. Dey, DOS						

22 AUG

गुवाहाटी न्यायपीठ
Guwahati Bench

Joint Commissioner P & V
Customs & Central Excise
Shillong

26/06/06

ASSISTANT

31

8-
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.171 of 2006

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

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

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

.....Applicant

By Advocate Shri S. Nath

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Revenue Department,
Ministry of Finance,
New Delhi - 110001.

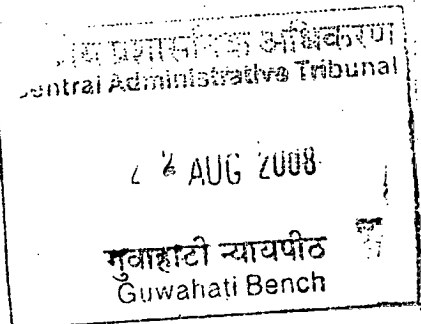
2. The Chief Commissioner
Central Excise,
Morello Compound,
Shillong - 793001.

The Commissioner
Customs & Central Excise,
Morello Compound,
Shillong - 793001.

4. The Joint Commissioner' (P & V)
Central Excise,
Morello Compound,
Shillong - 793001.

5. The Assistant Commissioner
Central Excise, Guwahati,
Sethi Trust Building,
Bhangagarh, Guwahati - 781005.

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



.....Respondents

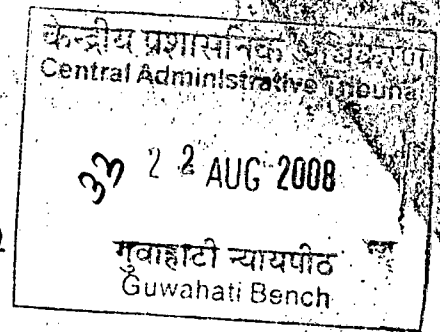
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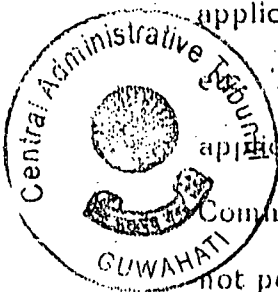
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ORDER

K.V. SACHIDANANDAN (VICE-CHAIRMAN)



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



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

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 AUG 2008

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Guwahati Bench

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

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



2

exempted from future personal interview. Only two persons senior to the applicant were given appointment as Sepoy and now the applicant is at serial No.6 in the waiting list for compassionate appointment.

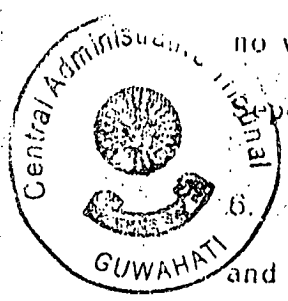
The applicant will be considered for compassionate appointment in due time as per policy/rules. Therefore, the present application is devoid of any merit and the same is liable to be dismissed.

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

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

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



[Handwritten signature]

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

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

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

.....

MISSING GOVERNMENT SERVANT

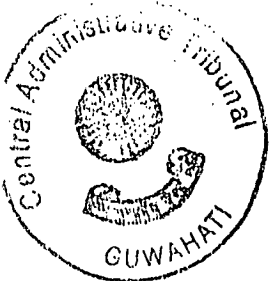
Cases of missing Government servants are also covered under the Scheme for compassionate appointment subject to the following conditions:

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

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

22 AUG 2008

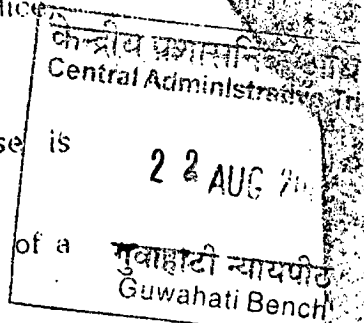
गुवाहाटी न्यायपीठ
Guwahati Bench



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

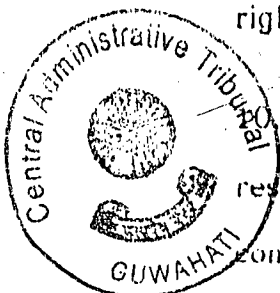
- i) as FIR to this effect has been lodged with the police
 - ii) the missing person is not traceable and
 - iii) the competent authority feels that the case is genuine.
- b) This benefit will not be applicable to the case of a Government servant:-

- i) Who had less than two years to retire on the date from which he has been missing; or
 - ii) Who is suspected to have committed fraud, or suspected to have joined any terrorist organisation or suspected to have gone abroad.
- a) Compassionate appointment in the case of a missing Government servant also would not be a matter of right as in the case of others and it will be subject to fulfillment of all the conditions, including the availability of vacancy, laid down for such appointment under the Scheme.
- (d) While considering such a request, the results of the Police investigation should also be taken into account, and
- (e) A decision on any such request for compassionate appointment should be taken only at the level of the Secretary of the Ministry/Department concerned."



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

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



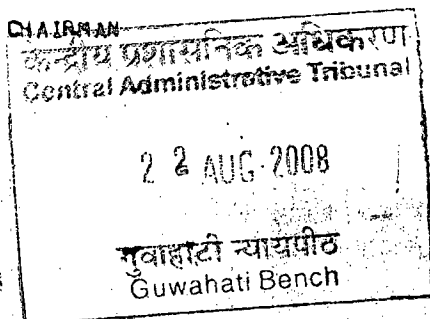
In the circumstances, I am of the view that since the respondents have given an assurance that the applicant's case will be considered as and when vacancy arises, the applicant will have to wait till such time. The respondents are accordingly directed to consider the case of the applicant as and when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

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

Date of Application : 7.5.07
 Date on which copy is ready : 7.5.07
 Date on which copy is delivered : 7.5.07
 Certified to be true copy

[Signature]
 Section Officer (J II)
 C. A. T. Guwahati Bench
 Guwahati 7.5.07

Sd/ VICE CHAIRMAN



To
The Chief Commissioner
Customs and Central Excise, Shillong Zone,
3rd Floor, Crescens Building,
M.G. Road, Shillong-793001

(Through the Deputy Commissioner,
Central Excise, Guwahati)

Sub: Judgment and order dated 04.05.07 passed in O.A. No. 171/2006 (Shri Amarjyoti Lahkar -Vs- U.O.I. & Ors.) by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati compliance of

Respected Sir,

With due respect and humble submission I beg to submit that I approached the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati, praying therein for a direction upon the Authority for appointment of the undersigned on compassionate ground in the post of Sepoy/LDC with immediate effect by filing Original Application No. 171/2006 (Sri Amarjyoti Lahkar -Vs- U.O.I. & Ors.). In this connection I beg to submit that my father Sri Gokul Chandra Lahkar, while working as Sepoy in the Central Excise, Guwahati he is missing since 05.01.1993, and after missing of my father, my mother was appointed to the department of Central Excise on casual basis w.e.f. 12.01.1994 but after her long service of about 13 years her service was not regularised and now a days she is unable to maintain the family with her meager income, moreover her fragile health is not permitting her to continue in temporary service. Therefore, I prayed to the Authority for my appointment in the post of Sepoy/LDC and I was also called for interview in the year 2002, but I was not appointed thereafter. Situated thus and being helpless I approached the Hon'ble Central Administrative Tribunal by filing the above mentioned Original Application. The Hon'ble Tribunal vide it's judgment and order dated 04.05.2007

14.5.07

प्रसि / Receipt for
सहायक आयुक्त / Assistant Commissioner
केन्द्रीय उत्पाद शुल्क / Central Excise
गुवाहाटी / Guwahati

Attest
[Signature]
[Signature]

केंद्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
4.5.2008
गुवाहाटी न्यायपीठ
Guwahati Bench

16- 2 40
directed the Authority to consider the case of the undersigned as and when vacancy arises and communicate the same to the undersigned.

Therefore, I earnestly request Your Honour to consider my case sympathetically and to appointment me to the post of Sepoy/LDC and to save my family from being ruined. I am enclosing a copy of the order dated 04.05.07 passed in OA No. 171/2006 for your perusal and necessary action for compliance thereof.

Encl:- Copy of the order dated 04.05.07.

Yours faithfully

Sri Amar Jyoti Lahkar.

(AMARJYOTI LAHKAR)

Date: 14-05-2007

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 AUG 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

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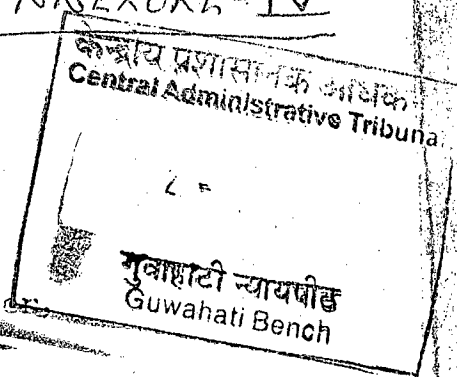
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ANNEXURE-IV

To,

The Chief Commissioner,
Central Excise,
Morrelle Compound,
Shillong - 793001.

(Through the Deputy Commissioner,
Central Excise, Guwahati)



Dtd.: 14-09-07

Sub.: Implementation of Judgement and order
Dtd. 04/05/2007 of CAT Guwahati in O.A.
No. 171 of 2006 (Shri Amarjyoti Lahkar,
-Vs- U.O.I. & Others)

Ref.: My representation Dtd. 14/05/2007.

Sir,
Most respectfully, I beg to state that I
submitted a representation on 14/05/2007 enclosing there
with a copy of judgement and orders dtd. 04/05/07 in
O.A. No. 171/2006, passed by The Hon'ble CAT, Guwahati
Bench for implementation of the same. In this connection
I pray before your honour to appoint me in any vacancy
of LDC/Soppy in terms of directly passed by the Hon'ble
CAT Guwahati as in duty bound shall ever pray.

I am enclosing a copy of judgement and order
dtd. 04/05/07 in O.A. No. 171/2006 for your ready referen-
ce and early action.

Encl.: Copy of judgement
dtd. 04/05/07

Yours faithfully,
Shri Amar Jyoti Lahkar.

(SHRI AMARJYOTI LAHKAR)
S/O Gokul Ch. Lahkar,
Vill. & P.O. Sanakuchi,
Dist. Nalbari, Assam.

14.9.07

RECEIVED / Receipt for
Shri Amar Jyoti Lahkar
14.9.07

Advocate



18 -
ANNEXURE-V

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE

MORELLO COMPOUND, M.C. ROAD, SHILLONG - I.

Tel. 91-0364-2224751 / 2223030.

Fax. 91-0364-2223428 / 2226215.

E-Mail: ccxshillong@excise.mca.gov.in

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 AUG

गुवाहाटी न्यायपीठ
Guwahati Bench

OFFICE MEMORANDUM

With reference to his/her application / Interview / recommendation of the Staff Selection Commission, Shri / Smt. Raju Bordoloi is hereby offered a temporary post of Asst in the scale pay of Rs. 2610-60-2910-65-3300-70-4000/- plus the usual allowances as sanctioned by the Government of India. His/her appointment will be subject to the following terms and conditions.

- (i) The appointment is purely temporary and will be governed by the C.C.S.(T.S) Rules 1965 and is liable to termination without assigning any reason under Rules 5.
- (ii) He/She will be on probation for a period of two years which may however be extended at the discretion of the appointment authority.
- (iii) He/She will have to comply with requirements of the C.C.S. (Conduct) Rules, 1964 and the plural Marriage Act. All Rules or orders already in existence or issued from time to time regarding attendance duties, discipline, conditions of service etc. will automatically be applicable to him/her.
- (iv) He/She must be willing to serve any where within the jurisdiction of Shillong Zone.
- (v) That on their appointment to service on or after 0.01.2004, they should be covered under the Defined Contribution Pension Scheme as per Department of Expenditure's O.M. No 1(7)(2)/2003/TA/616 dated 29.12.2003.
- (vi) He/She should give a declaration of his/her town for the purpose of L.T.C. within 6 (Six) months from the date of entry into service.
- (vii) He/She should pass the prescribed Departmental Examination within two years of his/her appointment, failure to which may lead to his/her service being terminated.
- (viii) That the seniority of the candidate of direct recruit vis-à-vis promotees will be assigned according to the Instruction issued by the Ministry from time to time.
- (ix) His/Her retention in service in future subject to his/her being found suitable for Government service in all respect.
- (x) His/Her appointment is subject to the production of Medical Certificate of Fitness from the Civil Surgeon/Assistant Surgeon in case of Group 'D' staff only and subject to his/her taking an oath of allegiance to the constitution of India.
- (xi) He/She is liable to transfer/posting within this Zone to which he/she is nominated and under no circumstance his/her request for transfer to any other Commissionerate outside this zone will be entertained.

Contd... P/2

Attested
Amar Jyoti Lohkari

Attested
JMS
Revenue

-19-

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3

- (v) A declaration in the form enclosed regarding marriage.
 - (vi) No Objection Certificate from his/her previous employer and release order from his/her employer accepting his/her resignation from the service
 - (vii) Attestation form in triplicate duly filled in.
 - (viii) Employment Exchange Registration Card in Original (if any).
4. No traveling or other allowances / fees will be paid to him/her for obtaining the Medical or other Certificates.

Encl :

Sd/-

(H.M. ANAL)
JOINT COMMISSIONER (P&V)
CUSTOMS & CENTRAL EXCISE
SHILLONG.

BY REGISTERED POST:

To :

✓

Mrs. Raju Bordoloi,
S/o (L) Haricharan Bordoloi, Ex-driver
C/o The Deputy Commissioner,
Central Excise Division, Shillong/Guwahati

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
22 AUG 2008
गुवाहाटी न्यायपीठ
Guwahati Bench

C. No. II(31)4/ET-III/2007/

10662-67

Dated :-

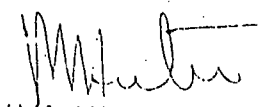
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Copy forwarded for information and necessary action to :

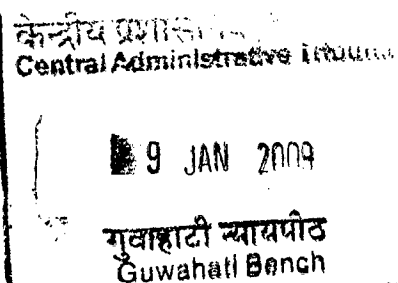
1. The Chief-Commissioner, Customs and Central Excise, Shillong Zone, 'Crescens Building, M.G. Road, Shillong.
2. The Deputy / Assistant Commissioner / Superintendent, Customs (P) / Central Excise Division,

A copy of the joining report along with an attested copy of each certificate showing his/her age, educational qualification and caste, employment exchange Registration Card (in original) etc. may please be sent to this Office immediately after his/her joining. Oath of Allegiance from the official may also be obtained and the same may be made an entry to this effect in the Service Book.

3. Copy to Personal File.



(H.M. ANAL)
JOINT COMMISSIONER (P&V)
CUSTOMS & CENTRAL EXCISE
SHILLONG.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

10/1
Filed by me applicant -
through: S. Nath
09.01.2009
Advocate

In the matter of:

E. P No. 7/2008

In O. A. No. 171/2006

Shri Amarjyoti Lahkar

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-And-

In the matter of:

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

The applicant above named most respectfully begs to state as follows:

1. That the applicant categorically denies the contention made in paragraph 4 of the written statement and begs to state that the Hon'ble Tribunal disposed of the O.A. No. 171/2006 on 04.05.2007 with the direction to the respondents as follows:

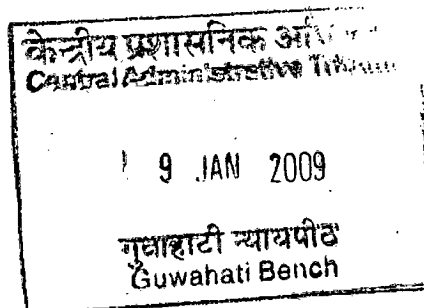
"10. In the circumstances, I am of the view that since the respondents have given an assurance that the applicant's case will be considered as and when vacancy arises, the applicant will have to wait till such time. The respondents are accordingly directed to consider the case of the applicant as and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

Sri Amar Jyoti Lahkar.

The aforesaid direction of the Hon'ble in it's judgment and order dated 04.05.2007 in O.A No. 171/2006 has attained it's finality and it appears from the contention of the respondents in para 4 of the written statement that the respondents have not at all examined the direction of this Hon'ble Tribunal regarding consideration of the case of the applicant for compassionate appointment as and when vacancy arises and deliberately ignored direction of this Hon'ble Tribunal in the judgment and order dated 04.05.2007 in O.A No. 171/2006.

It is further stated that the Hon'ble Tribunal after considering the submission of the respondents in O.A. No. 171/2006 and also after scrutiny of the D.O.P.T office memorandum, directed the respondents to consider the case of the applicant for compassionate appointment as and when vacancy arises, as such question of rejection of the case of the applicant on the point of barred by limitation does not arise at all. Be it stated from the submission of the respondents it is very much clear that there were 2 vacancies in the grade of Sepoys after the judgment and order dated 04.05.2007 in O.A. No. 171/2006, as such it was the duty of the respondents to consider the case of the applicant for appointment against any of those vacancies of Sepoy in order to comply with the direction of the Hon'ble Tribunal in O.A. No. 171/2006. But the respondents deliberately and willfully disobeyed the direction of the Hon'ble Tribunal and denied appointment of the applicant to the post of Sepoy. As such the Hon'ble Tribunal be pleased to initiate appropriate proceeding under Rule 24 of the CAT (Procedure) Rules, 1987 against the respondents for willful and deliberate violation of the judgment and order dated 04.05.2007 in O.A No. 171/2006.

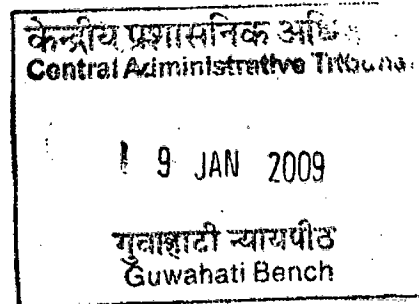
2. That the applicant denies the statement made in paragraph 5 of the written statement and further begs to state that the Hon'ble Tribunal in the judgment and order dated 04.05.2007 directed the respondents to consider the case of the applicant as and when vacancy arises and communicate the same to the applicant, but the respondents in spite of availability of 2 vacancies in the grade of Sepoy after the direction passed by the respondents vide judgment and order dated 04.05.2007 in O.A. No.



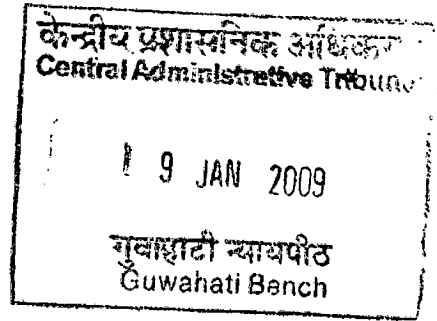
Shri Amar Tyoti Lahkar.

171/2006 in total disregard to the direction of this Hon'ble Tribunal denied appointment to the applicant against any of those vacancies. As such from the contention of the respondents in para 5 it is very much evident that the respondent willfully and deliberately disobeyed the direction of this Hon'ble Tribunal in O.A. No. 171/2006, therefore the Hon'ble Tribunal be pleased to pass order under Rule 24 of the Central Administrative (Procedure) Rule 1987 initiating proceeding against the respondents for willful and deliberate violation of the direction of the judgment and order dated 04.05.2007 in O.A. No. 171/2006.

In the circumstances as stated above the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant in the post of Sepoy in terms of the direction passed in O.A. No. 171/2006.



Sri Amar Jyoti Lahkar.



VERIFICATION

I, Shri Amarjyoti Lahkar, S/o- Gokul Chandra Lahkar, aged about 24 years, resident of Vill & P.O- Sanekuchi, Dist- Nalbari, Assam, do hereby verify that the statements made in Paragraph 1 to 2 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 7th day of January, 2009.

Sri Amar Jyoti Lahkar

File No. Court No. 16/12/08
Court Officer.

017

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

EP 7/2008 IN Misc Case No.107/08

in O.A. No. 171 OF 2006

Amarjyoti Lakhar

...Petitioner/Applicant

-Versus-

Union of India & Ors.

....Respondents

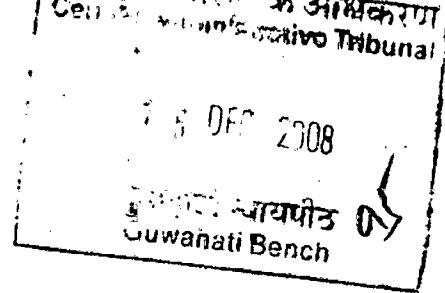
INDEX OF THE WRITTEN STATEMENT

SL.NO.	PARTICULARS	PAGE NOS.
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Filed by
Gautam Bishnaya
Sr. Secy
16.12.08

Received by
N. Arin
Advocate
16/12/08

Received
Dutta
16/12/08



Bijoy Kumar Jurel
B.K. Tlu
Asslt. Commissioner
Central

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

EP No 7/2008 in Misc Case 107/08

in O.A. NO. 171 OF 2008

Sri Amarjyoti Lahkar

.....Petitioner/Applicant

-Versus-

Union of India & Ors.

....Respondents

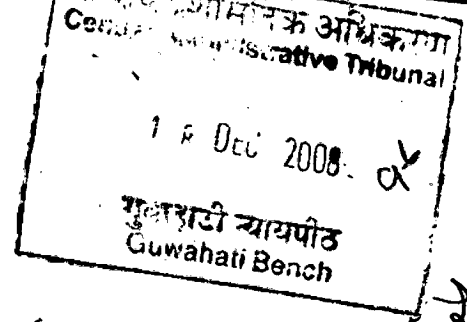
The written statement on behalf of
the Respondents above named-

WRITTEN OBJECTION OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

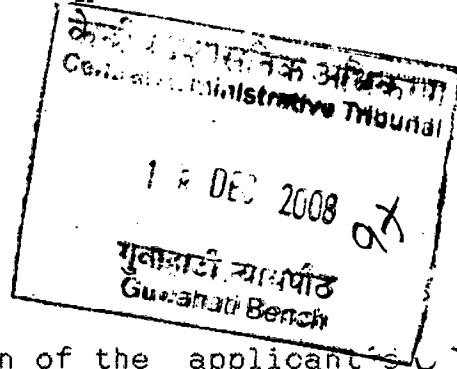
1. That a copy of the Execution petition has been serve upon the respondents and the respondents after going through the same has understood thereof.
2. That the respondents beg to state that the statement which are not specifically admitted by the respondent are deem to be denied by them.
3. That with regard to the statement made in paragraphs 1,2 and 3 of the execution petition the Respondents beg to offer no comment as those are matter of records and the respondents do not admit anything which are not borne out of records.

Contd...P/-



4. That with regard to the statement made in paragraph 4 of the execution petition the Respondents beg to state that Shri Raju Bordoloi has been temporarily appointed to the post of Sepoy. He was in the list of applicants for compassionate appointment. The Respondent No.3 being the Head of Department and the Cadre controlling Authority is the Competent Authority for approving any case of Compassionate Appointment. The appointment order of Sri Raju Bordoloi was issued by Respondent No.4 after due approval by Respondent No.3. The interviews for Compassionate appointment were held at Shillong only on 13th May, 2008. Placing the applicant at Sl. No.6 of the list does not confer any legal right for Compassionate Appointment. Compassionate Appointments are governed by DOPT's O.M. No. 14014/6/94-Estt (D) dated 09.10.1998 and No. 14014/19/2002-Estt(D) dated 5.5.2003. DOPT's circular dated 5.5.2003 provides that the maximum period that any applicant for Compassionate Appointment can be kept pending is 3(three) years. The Screening Committee for Compassionate Appointment^{met} on 24th March, 2008 and decided that all cases barred by limitation (including that of the applicant) should not be considered in the light of the aforesaid DOPT's instruction. This decision was approved by the competent Authority Respondent No.3. There was no vacancy in the grade of LDC while there were only 2 vacancies in the grade of Sepoys at the time of considering the case of appoint-

Pradyot Kumar Jurel
B.K. Tiri
Asstt. Commissioner
Central Administrative Tribunal
Guwahati



ment. Accordingly, non consideration of the applicant's case is on account of observance of the Schemes for Compassionate Appointment laid down by Government of India.

Copy of the OM dated 9.10.1998 is annexed herewith and marked as Annexure-1.

Copy of the DOPT's circular dated 5.5.2003 is annexed herewith and marked as Annexure-2.

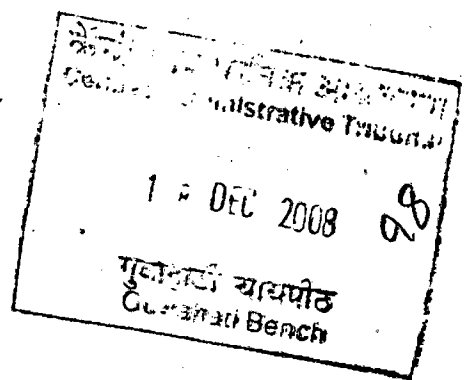
5. That with regard to the statement made in paragraph 5 of the execution petition the Respondents beg to state that the order dated 4th May, 2007 passed by the Hon'ble CAT, Guwahati Bench in O.A. No. 171/2006 did not require that the respondents were to provide Compassionate Appointment to the Applicant as a matter of right. However, due to oversight the respondents did not inform the applicant that his case could not be considered in the light of DOPT's instruction dated 5.5.2003. The position has been corrected and the applicant has now been informed about the reasons for non consideration of his case. It is submitted that there is no wilful violation of the order dated 4th May, 2007 of the Hon'ble CAT, Guwahati Bench.

Copy of the letter to the applicant dtd. 23.10.08 is annexed herewith as Annexure-3.

6. That with regard to the statement made in paragraph 6 of the execution petition the Respondents beg to offer no comment.

Contd...P/-

Rajoy K. R. Tudu
 Asstt. Commissioner
 Guwahati



VERIFICATION

I, Sri Bijoy Kumar Tiro S/o. Dan Tiro
 aged about 57 years, R/o Brahmaputra Apartment Pata Buz, Guwahati
 District Kamrup ^{working as Asstt Commissioner, Central} and competent officer of the Excise, Ghy
 answering respondents, do hereby verify that the state-
 ment made in paras 1, 2, 3 & 6 are true
 to my knowledge and those made in paras 4 & 5
 being matters of record are true to my information
 derived therefrom which I believe to be true and the
 rests are my humble submission before this Hon'ble
 Tribunal.

And I sign this verification on this 8 th day
 of December 2008 at Guwahati.

Bijoy Kumar Tiro

Signature B. K. Tiro
 Asstt. Commissioner
 Central Excise, Guwahati

36. All India Carrom Federation, 1997, Sona Bazar, Bhagirath Place, Chandni Chowk, Delhi — 110 006.
37. All India Lawn Tennis Association, B-3/7, Asaf Ali Road, New Delhi — 110 002.
38. Amateur Athletic Federation of India, Room No. 1148-A, Gate No. 28, Jawaharlal Nehru Stadium, New Delhi.
39. Atya Patya Federation of India, Nagpur Sharirik Shikshan Mahavidyalaya, Dr. Moonga Marg, Dhantoli, Nagpur — 12.
40. Billiards & Snooker Federation of India, C/o. The Bengal Bonded Warehouse Association, 25, Netaji Subhas Road, Calcutta — 700 001.
41. Cycle Polo Federation of India, Dundlod House, Hava Sarak, Civil Lines, Jaipur — 302 006.
42. Indian Amateur Boxing Federation, 158-A, Gate No. 28, Jawaharlal Nehru Stadium, New Delhi — 110 003.
43. Indian Powerlifting Federation, 98, New Ranikudar, Jamshedpur — 831 005.
44. Amateur Handball Federation of India, 27, Parade Ground, Jammu Tawi — 180 001.
45. Badminton Association of India, C/o. Jackson Hotel, Civil Line, Jabalpur (MP) — 420 001.
46. Board of Control for Cricket in India, Cricket Association of Bengal, Dr. B.C. Roy Club House, Eden Gardens, Calcutta — 700 021.
47. Equestrian Federation of India, 764-B, Gate 29, Jawaharlal Nehru Stadium, New Delhi — 110 003.
48. Indian Body Building Federation, 1/49, Santokh Mansion, Br. Nath Pali Road, Mazgaon, Mumbai — 400 010.
49. Indian Style Wrestling Federation of India, NIS Wrestling Coach, House No. 1335, Sector-17, Defence Colony, Gurgaon (Haryana).
50. Indian Kayaking & Canoeing Association, 606, Akash Deep, 6th Floor, Barakhamba Road, Connaught Place, New Delhi — 110 001.
51. Roller Skating Federation of India, 14/2, Clive Road, Calcutta — 700 001.
52. Shooting Ball Federation of India, S-28, Greer Park Extension, New Delhi.
53. Amateur Baseball Federation of India, 112/14, Onkar Nagar-8, Tri Nagar, Delhi — 110 035.

Asstt. Commissioner
Central Finance, Jawahar

5 - Dep'ts O.M. No. 14014/6/94 - ESH(D) dt. 09/10/1998

CHAPTER 32

COMPASSIONATE APPOINTMENTS

(1) Implementation of the recommendations of the "Study Report on Employment on Compassionate Grounds".— The undersigned is directed to forward herewith a copy of extracts of recommendations made in the "Study Report on Welfare Measures for the Central Government Employees" on Employment on Compassionate Grounds.

Welfare Officers are requested to take action on recommendation No. 4 of the Study Report as and when such cases arise in their respective Ministry/Departments.

[G.I., Dept. of Per. & Trg., O.M. No. 32/498-Welfare, dated the 29th July, 1998.]

ENCLOSURE

Recommendations made in the Study Report on "Employment on Compassionate Grounds — Delay and Harassment — Need for Streamlining Procedures" — (Compiled and Issued in August, 1990)

Recommendations

1. The Department of Personnel and Training should revise its instructions so as to define the term 'near relative' and to include a wife or husband or brother or sister of the deceased Government servant as a beneficiary of the scheme of compassionate appointments.

2. The power to relax limit of 5% of direct recruitment vacancies for making compassionate appointments should be vested with the Secretary in the Ministries/Departments of Government of India.

3. The Ministries/Departments should ensure that the compassionate appointments are made on means-cum-merits basis.

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

5. A time norm of 6 to 8 weeks should be fixed for making compassionate appointments.

6. The Department of Personnel and Training should make arrangements for a periodic review of cases of compassionate appointments dealt with the Ministries/Departments with a view to reduce delay and to get feedback on

of prescribing a time-limit for making appointment on compassionate grounds has received due consideration taking into account the ceiling of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' post prescribed in this regard in Paragraph 7 (b) *ibid* and the ruling of the Supreme Court that appointment on compassionate grounds can be made only if vacancies are available for the purpose mentioned in Para. 17 (d) *ibid*.

Accordingly, it has been decided that the Committee prescribed in Para. 12 *ibid* for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% mentioned above. This would ensure grant of compassionate appointment within a year.

The instructions contained in the OM, dated 9-10-1998 [*Order (2) above*] stand modified to the extent mentioned above.

[G.I., Dept. of Per. & Trg., O.M. No. 14014/23/99-Estt. (D), dated the 3rd December, 1999 and O.M. No. 14014/18/2000-Estt. (D), dated the 22nd June, 2001.]

(4) Time-limit for Compassionate Appointment.— The undersigned is directed to refer to Department of Personnel and Training O.M. No. 14014/6/94-Estt. (D), dated 9-10-1998 and O.M. No. 14014/23/99-Estt. (D), dated 3-12-1999 (*Orders (2) and (3) above respectively*) on the above subject and to say that the question of prescribing a time-limit for making appointment on compassionate grounds has been examined in the light of representations received, stating that the one-year limit prescribed for grant of Compassionate Appointment is often resulting in depriving genuine cases seeking compassionate appointments, on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% of Direct Recruitment quota.

2. It has, therefore, been decided that if Compassionate Appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, 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 availability of a clear vacancy within the prescribed 5% 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.

3. 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 the 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.

4. The instructions contained in the above-mentioned OMs stand modified to the extent mentioned above.

5. The above decision may be brought to the notice of all concerned for information, guidance and necessary action.

[G.I., Dept. of Per. & Trg., O.M. No. 14014/19/2002-Estt. (D), dated the 5th May, 2003.]

(5) Maintenance of other dependent family members of the deceased Government servant by the appointee.— According to Paragraph 13 of the Department of Personnel and Training Office Memorandum No. 14014/6/94-Estt. (D), dated 9-10-1998 [*Order (2) above*] on the above subject, a person appointed on compassionate grounds under the scheme should give an undertaking in writing that he/she will maintain properly the other family members who were dependent on the Government servant / member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. The question of its legal enforceability has been examined in consultation with the Ministry of Law (Department of Legal Affairs) and it has been decided that it should be incorporated as one of the additional conditions in the offer of appointment applicable only in the case of appointment on compassionate grounds.

2. The relevant instructions contained in the aforesaid Office Memorandum, dated 9-10-1998 [*Order (2) above*] stand modified to the extent mentioned above.

[G.I., Dept. of Per. & Trg., O.M. No. 14014/6/94-Estt. (D), dated the 20th December, 1999.]

(6) Secretary of the Administrative Ministry / Department only can terminate the services of a compassionate appointee for non-compliance of any condition in the offer of appointment.— The Department of Personnel and Training, O.M. No. 14014/16/99-Estt. (D), dated 20-12-1999 [*Order (5) above*] provides that in the case of compassionate appointment, the offer of appointment should contain a specific condition to the effect that a person appointed on compassionate grounds under the scheme should give an undertaking in writing that he/she will maintain properly the other family members who were dependent on the Government servant / member of the Armed Forces in question and in case it is proved subsequently (at any time) that the family members are being neglected or are not being maintained properly by him/her, his/her appointment may be terminated forthwith. The procedure to be followed in general for such termination particularly, the question whether the procedure prescribed in the Disciplinary Rules/Temporary Service Rules should be followed or not has been examined in consultation with the Ministry of Law (Department of Legal Affairs). It has been decided that such compassionate appointments can be terminated on the ground of non-compliance of any condition stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show-cause notice asking him/her to explain why his/her services should not be terminated.

Benjoy K. B. Kar, Jr. Esq. 0°
Asstt. Commissioner
Central Office, Siliguri

Attention : Suppl. (Gen) Bldg.

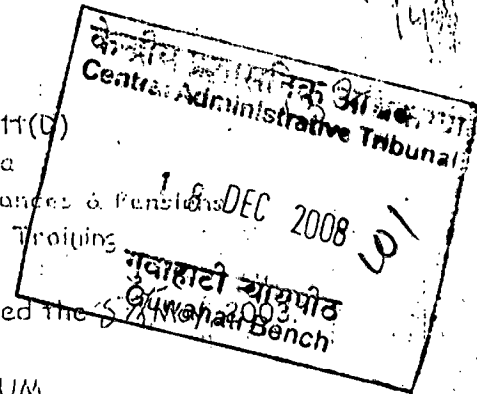
No. 14014/19/2002-Estt(D)

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

New Delhi, dated the 6/11/2003



OFFICE MEMORANDUM

Subject: Time-limit for making compassionate appointment.

The undersigned is directed to refer to Department of Personnel & Training OM No.14014/6/94-Estt(D) dated October 9, 1998 and OM No.14014/23/99-Estt(D) dated December 3, 1999 on the above subject and to say that the question of prescribing a time limit for making appointment on compassionate grounds has been examined in the light of representations received, stating that the one year limit prescribed for grant of compassionate appointment is often resulting in depriving genuine cases seeking compassionate appointments, on account of regular vacancies not being available, within the prescribed period of one year and within the prescribed ceiling of 5% of direct recruitment quota.

2. It has, therefore, been decided that if compassionate appointment to genuine and deserving cases, as per the guidelines contained in the above OMs is not possible in the first year, due to non-availability of regular vacancy, 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 availability of a clear vacancy within the prescribed 5% 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.

B. K. Tiru
B. K. Tiru

Asstt. Commissioner
Central Excise, Guwahati

3. 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 Committee has reviewed and certified the penurious condition of the applicant at the end of the first and the 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.

Centre for Administrative Tribunal
13 DEC 2008
गुवाहाटी न्यायाधीश
Guwahati Bench

4. The instructions contained in the above mentioned OMs stand modified to the extent mentioned above.

5. The above decision may be brought to the notice of all concerned for information, guidance and necessary action.

6. Hindi version will follow.

Kashyap
(Vidhu Kashyap)
Director(JCA)

To
All Ministries/Departments of the Government of India.

Copy to:-

1. The Comptroller and Auditor General of India
2. The Secretary, Union Public Service Commission.
3. Rajya Sabha Secretariat.
4. Lok Sabha Secretariat.
5. All State Governments/Union Territory Administrations.
6. All Attached/subordinate offices under the Department of Personnel & Training/Ministry of Home Affairs.
7. National Commission for SCs/STs, New Delhi.
8. National Commission for OBCs, New Delhi.
9. The Secretary, Staff Side, National Council.
10. The Registrar General, The Supreme Court of India.
11. The Department of Administrative Reforms and Public Grievances, Sardar Patel Bhavan, New Delhi.
12. All Officers/Sections of Department of Personnel & Training.
13. Facilitation Centre, DOP&T, 20 spare copies.
14. Establishment (D) Section (500 copies)

✓
Rajoy Kumar Tiwari
B. K. Tiru
Asstt. Commissioner
Central Excise, Guwahati

F.No A-12012/67/2004-AD.III.B.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 15th July, 2004.

To
All Chief Commissioner of Central Excise & Customs [by name],
All Chief Commissioner of Customs [by name],
All Director Generals/Directors under CBEC [by name],
Narcotics Commissioner, CBN, Gwalior [by name],
Director, CRCL, New Delhi [by name].

SUBJECT: Time-limit for making compassionate appointments -Reg.

Sir,

I am directed to send a copy of Department of Personnel and Training's OM No. 14014/19/2002-Estt.(D) dated 5.5.2003 on the above mentioned subject. According to para-3 this OM dated 5.5.2003 "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 first and the 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".

2. In another case referred by this department, Department of Personnel and Training has further clarified that "the time limit of three years for compassionate appointment may be decided with reference to the date of death or retirement on medical grounds of a Government servant. (However, in case of minor, the date on which the applicant attains the minimum age for appointment in Government service, should be taken for the purpose".)

3. All concerned are requested that the pending cases of compassionate appointment may be processed accordingly.

Encl: As above.

Yours faithfully,

(S.K. THAKUR)

UNDER SECRETARY TO THE GOVT. OF INDIA

C.No. H(3)14/CCO/SH/2003/ 22906-08

Dated

Copy forwarded for information and necessary action to:-

✓ The Commissioner of Central Excise, Shillong.
✓ The Commissioner of Central Excise, Dibrugarh.
✓ The Commissioner of Central Excise (P), M.B.P., Shillong

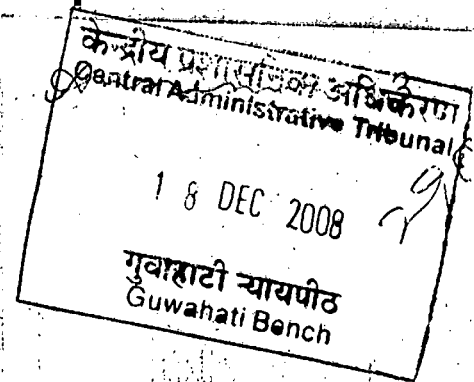
Bijoy Kumar Jais
Asstt. Commissioner
Central Excise, Guwahati.

103
85 DEC 2008
गुवाहाटी बेंच
Guwahati Bench

What action
do we propose
to take?

As C&T
Shamita

6 AUG 2004



GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, M.G. ROAD, SHILLONG - 1.
Tel. 91-0364-2224751 / 2223030. Fax. 91-0364-2223428 / 2226215. E-Mail: ccxshill@excisc.nic.in

C. No. II(3)4/ET-II/2004/

Dated :

To,

Shri Amar Jyoti Lahkar,
S/o (L) Gokul Chandra Lahkar,
Vill & P.O. Sanekuchi,
Nalbari District,
Assam.

Sub : Request for compassionate appointment - regarding.

Please refer to your application dated 14.09.2007 and the Hon'ble CAT, Guwahati Bench order dated 04.05.2007 in respect of O.A. NO. 171/2006.

In this regard, you are informed that your request for appointment on compassionate grounds cannot be acceded to in the light of DOPT's instruction F. No. 14014/19/2002-Estt(D) dated 05.05.2003, which provides that the maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years.

This issues with the approval of Commissioner, Central Excise, Shillong.

Sd/-

(ARVIND MADHAVAN)
JOINT COMMISSIONER (P&V)

C. No. II(3)4/ET-II/2004/

Dated :

Copy forwarded for information to the Superintendent (PLC), Central Excise, Hqrs. Office, Shillong.

(ARVIND MADHAVAN)
JOINT COMMISSIONER (P&V)

Bijay Kumar Jais
B. K. Tiru
Asstt. Commissioner
Central Excise, Guwahati