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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 176/2005

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SECTION OFFICER (Judl.)

Salita
03/11/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 176/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(S): N. C. Karm

Respondant(S): H. O. I. Pers

Advocate for the Applicant(S): A. K. Roy, L. Wapung

Advocate for the Respondant(S): CASE

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/PD No. <u>206/160/05</u> Dated: <u>2.5.05</u>	4.7.2005	Heard learned counsel for the applicant. The application is disposed of in terms of the order passed in separate sheets at the admission stage itself.

Dy. Registrar
29.6.05

Vice-Chairman

Steps taken with
envelops.

mb

20.7.05
8/7/05

Copy of the Judgment
has been sent to the
D/Sec. for issuing the
same to the applicant
by post.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 176 of 2005.

DATE OF DECISION: 04.07.2005

Shri Nipen Chandra Kanu

APPLICANT(S)

Mr. A. K. Roy

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Ors.

RESPONDENT(S)

Mr. A. K. Chaudhuri, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

Judgment delivered by Hon'ble Vice-Chairman.

[Handwritten signature]
2005-7-9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 176 of 2005.

Date of Order: This, the 4th Day of July, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

Shri Nipen Chandra Kanu
Son of Late L. N. Kanu
Working as ED(BD)
O/O. Naharlagun Post Office
Dist: Papum Pare (Arunachal Pradesh).

..Applicant.

By Advocates S/Shri A.K.Roy & Limawapang.

- Versus -

1. Union of India
Represented by the Secretary
Govt. of India
Department of Communication &
Information Technology
Dak Bhawan, New Delhi - 110 001.
2. Chief Post Master General
N. E. Circle, Shillong - 793 001.
3. Director of Postal Service
Arunachal Pradesh Division
Itanagar - 791111.
4. Sub-Divisional Inspector of Posts
Arunachal Pradesh, West Sub-Division
Itanagar - 791 111.

... Respondents.

By Mr. A. K. Chaudhuri, Addl.C.G.S.C.

ORDER (ORAL)

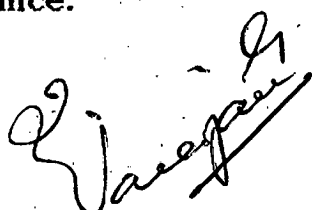
SIVARAJAN, J.(V.C.)

The applicant's father late L. N. Kanu was Group - D employee in Ziro, S.O. under the respondents. He died on 4.4.1995. The applicant made an application dated 18.3.2001 before the third respondent for compassionate appointment. The applicant was appointed as GDS Mail Carrier on provisional basis w.e.f. 1.6.2002 as per order dated 1.6.2002 (Annexure-D). The present grievance of the applicant is that his services have not so far been regularised. The

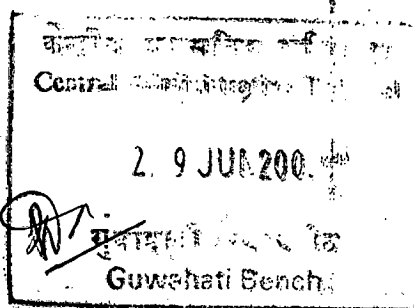
applicant, therefore, made a representation dated 22.1.2004 (Annexure-E) before the second respondent. Since there is no response to the above the applicant has approached this Tribunal by way of this application.

2. Heard Mr. A. K. Roy, learned counsel for the applicant and Mr. A. K. Chaudhuri, learned Addl.C.G.S.C. for the respondents. Annexure-D is the order by which the applicant is given provisional appointment to the post of GDS Mail Carrier w.e.f. 1.6.2002. The applicant's claim is for regular appointment to the said post. Since the applicant has preferred a representation dated 22.1.2004 (Annexure-E) before the second respondent, it is for the said respondent to pass appropriate orders on the said representation. In the circumstances, there will be a direction to the second respondent to dispose of the representation (Annexure-E) as expeditiously as possible at any rate within a period of four months from the receipt of this order.

The O.A. disposed of as above. The applicant will produce this order before the concerned respondent for compliance.


(G. SIVARAJAN)
VICE CHAIRMAN

BB



Dist- Dibrong Valley(A.P.)

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

Original Application No. 176 /05

Shri Nipen Chandra Kanu.

Applicant.

- Vs -

Union of India & Ors.

Respondents.

LIST OF DATES

Sl.	Dates	Particulars	Para	Annexure	Page
1	4.4.95	Applicant's father, who was an employee under Respondents died in harness.	4(ii)		4
2	18.3.01	Applicant submitted application for appointment on compassionate ground.	4(ii)	A	4
3	2.5.01	Respondent's letter directing applicant to submit certain documents.	4(iii)	B	4-5
4	18.5.01	Applicant submitted documents through this letter.	4(iii)	C	4-5
5	1.6.02	Appointment order on compassionate ground as GDS(ED) on provisional basis reserving right to terminate at any time without assigning any reasons. Being helpless, applicant was bound to join and still working as such without any break.	4(iv)	D	5
6	22.1.04	Applicant's representation requesting for regularization of service.	4(vii)	E	6
		But till date the respondents neither respond to his representation nor regularize his service due to which applicant always feel insecure and apprehends of being terminated at any time.			

Dist- Dibrong Valley(A.F)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

[An application under Section 19 of the
Administrative Tribunal Act, 1985]

Original Application No. 176 of 2005

Shri. Nipen Chandra Kanu.

.....Applicant.

- Vs -

The Union of India and Ors.

.....Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page No.</u>
1.	Original Application	1 -	10
2.	Verification		11
3.	Annexure -A		12
4.	Annexure -B		13
5.	Annexure -C		14
6.	Annexure -D		15
7.	Annexure -E		16

For use in the Office

Signature
Date: .

Dist- Dibang Valley (A.P.)

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

[An application under Section 19 of the
Administrative Tribunal Act, 1985]

Original Application No. of 2005

- BETWEEN -

Shri Nipen Chandra Kanu

Son of Late L.N. Kanu,

Working as ED(BD),

O/O. Naharlagun Post Office,

Dist-Papum Pare (Arunachal Pradesh).

....Applicant.

1. Union of India,

Represented by the Secretary,

Govt. of India,

Department of Communication &

Information Technology,

Dak Bhawan, New Delhi-110 001.

2. Chief Post Master General,

N.E. Circle, Shillong-793001.

3. Director of Postal Service,

Arunachal Pradesh Division,

Itanagar-791111.

Nipen chandra Kanu.

Filed by the applicant
L. Wapary
Advocate
29/6/05

4. Sub-Divisional Inspector of
Posts, Arunachal Pradesh, West
Sub-Division, Itanagar-791 111.

.....Respondents.

I. PARTICULARS OF THE ORDER(S) AGAINST WHICH
APPLICATION IS DIRECTED -

This application is directed against the action of the Respondents in non-regularizing of service of the applicant on compassionate ground though he has been appointed on provisional basis vide order dated 1.6.2002 on compassionate ground and though there are number of regular vacancy.

2) JURISDICTION:

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

3) LIMITATION

The applicant also declares that the present application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4) FACTS OF THE CASE

- 1) That the applicant is a citizen of India and a resident of village-Doimukh, P.O-Doimukh. under

Nipen Chandra Karm

Papum Pare district of Arunachal Pradesh and as such he is entitled to all rights, protections and privileges as guaranteed under the Constitution of India and Laws framed thereunder.

- ii) That the applicants father Late L.N. Kanu was a Group-D employee in Ziro, S.O, under the respondents who died in harness on 4.4.95. Due to sudden death, the whole family was in not shabby condition due to poverty and each family members had to face severe financial hardship. But at that time applicant was not aware about provision of compassionate ground and hence he did not made any application immediately after the demise of his father. Ultimately, following the advise of well-wishers, he submitted his application dated 18/3/2001 for appointment on compassionate ground to the Respondent No.3 which was submitted to the said authority on 20.3.2001.

Copy of the application dated 18/3/2001 is annexed herewith as Annexure-A.

- iii) That the applicant states that after the said representation, the respondents vide their letter dated 2.5.2001 directed the applicant to submit certain documents as were mentioned in

Niper Chandra Kanu

that letter and accordingly, the applicant submitted all those documents through one letter which was received by the respondent on 18.5.2001.

Copies of Respondent's letter dated 2.5.2001 and applicant's letter dated 18.5.2001 are annexed herewith as Annexures-B and C respectively.

- iv) That ultimately the respondents authority vide Memo No.A-1/Yupin dated 1.6.2002, appointed the applicant on provisional basis as GDS Mail carrier on compassionate ground. Be it stated that though the said post was occurred regular vacancy due to cancellation of appointment of earlier incumbent. The respondent authority also reserve their right to terminate the service of the applicant at any time without any notice and without assigning ay reasons.

Copy of the appointment order dated 1.6.2002 is annexed herewith as Annexure-D.

- v) That the applicant states that since his joining in the said capacity as per the appointment order dated 1.6.2002, the applicant has been performing duties continuously to his best sincerity and to the satisfaction of all concerned. During this period he was also

Nipau chandra Kaur o

offered to work on officiating basis in the post of Group 'D' for 52 days w.e.f. Oct, 2003 to Dec' 2003.

vi) That the applicant states that though he has been working as GDS for last three years continuously and though there are number of regular vacant posts including the post against which he has been working, the respondents authorities have not regularize his service and hence he always feels insecure and apprehends that he may be terminated at any time as per the terms and condition of the appointment order.

vii) That the applicant states that since, the appointment is only a provisional appointment, the applicant submitted one representation dated 22/1/2004 to the Respondent No.2 and thereby requested the authority to consider his case on compassionate ground for regular appointment, but till date no response has been made from the respondents side and accordingly kept the matter hanging.

Copy of the representation dated 22.1.2004 is annexed herewith as Annexure-E.

viii) That the applicant states that as his appointment was on compassionate ground, the

Nipen Chandra Kaur.

respondent should have appoint on regular basis, moreso, when there was regular vacant post, but instead of doing so he was appointed on provisional basis with condition to terminate him at any time without giving any service security.

- ix) That the applicant states that as he has been working for last three year continuously in the same post, his service is required to be regularized, moreso when the same has been made on compassionate ground. But the respondents are silent, inspite of his representation and hence, being aggrieved and apprehending that he may be terminated at any time at the whims of the respondents, he approach this Hon'ble Tribunal by filing this application.

5) GROUND S

- 1) For that as the appointment of the applicant was on compassionate ground, he should be given regular appointment against a regular vacant post so that the whole family members of the deceased family may feel socially and financially secured.

Nipen chandra Kaur.

- 11) For that as there are number of regular vacant posts in Group 'D' and GDS he should be given regular appointment against any post.
- iii) For that the applicant has been working for last three years in the same capacity without any break, his service is required to be regularized.
- iv) For that as per Directive Principles of State Policy, the respondents should give the service security to its employee, but in the instant case, the respondent authorities kept the matter hanging for last three years without providing any security.
- v) For that due to the terms and conditions of the appointment order, the applicant and whole member of hi family always feels insure of job.
- vi) For that the action of the respondents is illegal inasmuch as the same is against the principle of natural justice and Administrative fair play.
- vii) For that the actions of the respondent is against the fundamental rights as have been guaranteed under Article 14, 16 and 21 of the Constitution of India.

Nipai Chandra Kauri.

viii) For that at any rate the action of the respondents is not sustainable in the eye of law and liable to be set aside and quashed.

6) DETAIL OF REMEDIES EXHUSTED -

The applicant states that he has availed all the remedies as stated in paragraphs 4 of this application but failed to get justice and hence there is no other alternative remedy available to him other than to approach this Hon'ble Tribunal by filing this application.

7) MATTER NOT PEVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicant further declares that he has not filed any application or writ petition or suit regarding this matter before any Court or any other bench of this Hon'ble Tribunal nor any such petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR

Under the facts and circumstances stated above the applicant prays for the following reliefs:-

- i) To direct the respondent to appoint the applicant regularly against any permanent vacant post and/or regularize his service.

Nipen chandra Karm.

ii) To pass any other further order or orders as your Lordships may deem fit and proper.

9) INTERIM RELIEF PRAYED FOR -

Under the fact and circumstances stated above your Lordships may further be pleased to pass necessary order directing the respondents not to terminate the service of the applicant as stated in the appointment order.

10)

11. PARTICULARS OF I.P.O. :

- a) IPO No. — 209 / 606 / 7
- b) Date of Issue - 2 / 5 / 05
- c) Payable at - Guwahati

11) LIST OF ENCLOSERS :

As stated in Index.

.....Verification.....

Nipen chandra Karm.

VERIFICATION

I, Shri Nipen Chandra Kanu, S/o. Late L.N. Kanu, aged about 26 years, resident of Doimukh, Dist- Papum Pare, Arunachal Pradesh, at present working as GDS, ED, Naharlagun Post Office, do hereby verify that the statements made in paragraphs 1 to 12 of this application are true to my personal knowledge and the submission, I believe the same to be true as per legal advice and I have not suppressed any material fact of the case.

And I sign this verification on this the 26th day of June, 2005 at Guwahati.

Date -

Nipen chandra Kanu
Signature

Place -

A - 12 -

To,

The Director Postal Service
Itanagar (A.P)

Dated on 18/05/2001.

Sub:- Prayer for a Job on Companssonate ground.

Sir,

With due respect and humble submission I beg to lay down a few lines for favour of your kind consideration and sympathetic action please.

That Sir, My father, Late Laxmi Narayan Kamu, had been working as a Group 'D' Official in your Department. He died on 04/04/1995, while met with an accident as the time serving as a Group 'D' at Hapoli (Zero) Post-Office under the Lower Subansiri District of Arunachal Pradesh.

After demise of my father, late Laxmi Narayan Kamu, we have facing severe problem at home for our day to day living as there is no other way to earn our living hood and to run our family after him.

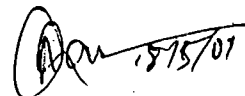
I am, Shri Nipen Chandra Kamu, eldest son of Late Laxmi Narayan Kamu, have passed Class X and due to financial problem I am not in a position further, At present it is very much necessary for me to get engaged myself in a job so that I can able to look after the other members of our family.

Therefore, Sir by considering the above mentioned facts, please observe me at any post in your Department on companssonate ground for which I shall remain ever grateful to you.

Thanking You Sir,

*Attested**fin*
*26/6/05**Shri Nipen Chandra Kamu*

Yours faithfully



(Nipen Chandra Kamu)
C/O Mrs. Toroni Lota Kamu,
Sub-Post Office
B o m d i l a .

DEPARTMENT OF POST : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
ARUNACHAL PRADESH DIVISION
ITANAGAR-791 111.

NO:B-3/44/P.T.III

Dated at Itanagar the 2.5.2001

TO

✓ Shri.Nipen Chandra Kanu(s/o late Laxmi Narayan Kanu,Ex-Gr-D)
c/o Smt.Toroni Lota Kanu
Bomdila Sub Post Office.

Sub:- Request for Compassionate Appointment.

Ref:- Your representation dtd 20.3.2001 f/d to C.P.M.G. Shillong.

Please submit the following documents immediately for onward
transmission to C.O. Shillong for further necessary action.

- 1.5 copies of synopsis (duly filled in)
- 2.Death certificate (duly attested)
- 3.Educational Qualification Certificates of applicant (duly attested)
- 4.Other documents if any.

Attested
for
26/6/05
Admnstrator

(G.G.SINGHA)
Dy.Supt. of Post Offices(HQ)
o/o the Director of Postal Services
Arunachal Pradesh Division
Itanagar-791 111.

The Director of Postal Services.
Arunachal Pradesh Division.
Itanagar-791111.

Sub- Request for compassionate Appointment.

Refer- Your letter no. B-3/44 pt III dtd. 2/5/01

Sir,

With reference to your above mentioned subject and letter no. myself the candidate for the same submitting herewith for your kind disposal.

- 1) Synopsis part I,II,III (5 copies)
- 2) Class x pass certificate.
- 3) Class x marksheet.
- 4) Migration Certificate from school.
- 5) Death Certificate.
- 6) Birth Certificate- Candidate
- 7) P.R.C. of Candidate.
- 8) Employment Exchange Regd. Card.

Yours Faithfully,

(Nipen Chandra Kanu)
c/o Mrs. Toroni Lota Kanu.
P.O. - Bomdila.
West Kameng Distt.

Received
Nipen
18.5.01

Attested

26/6/01

Admitted

ANNEXURE-D

Department of Posts, India.
Office of the Sub-Divisional Inceptor of Posts Arunachal
West Sub-Division: Itanagar-791 111.

Memo No.A-1/Yupia

Dated-01.06.2002.

Whereas the post of GDS Mail Carrier Yupia BO in account with Doimukh SO under Itanagar HPO (the post of GDS Mail Carrier, Jaipur BO in account with Namsai SO with the TRCA of Rs. 1545-25-2020 has been re-deployed as GDS Mail Carrier Yupia BO in account with Doimukh So vide DPS/Itanagar Memo No.B-4(Yupia dated 04-12-2001) due to cancellation of the Provisional Appointment under issued in favour of Shri Ram Gyani Yadav, with effect from 01-06-02 F/N under this office Memo of even No. Dated 20.03.02. It is not possible to make regular appointment against the post immediately, the undersigned (Appointing Authority) has decided to make provisional appointment to the said post w.e.from 01-06-2002 F/N till either regular appointment.

Shri Nipen Chandra Kanu, S/o. Late Laxmi Narayan Kanu Ex-Group-D Ziro So in A.P. Division is offered the provisional appointment on compassionate ground by relaxation of normal recruitment rules. He should clearly understand that the provisional appointment would be terminated when regular appointment is made and he shall have no claim for appointment to any post.

The undersigned also reserves the right to terminate the provisional appointment at any time before the period mentioned in Para 1 above without any notice and without assigning any reason.

Shri Nipen Chandra Kanu will be governed by the GDS(Service & Employment Rules, 2002 as amended from time to time and all other rules and orders applicable to the GDS.

In case the above conditions are acceptable Shri Nipen Chandra Kanu he should sign the duplicate copy of this memo and return the same in the undersigned immediately.

Sd/-
(M.A. Malai)
SDI(W) Itanagar.

Copy to -

1. The Postmaster, Itanagar HPO for information and n/a please.
2. The SPM Doimukh SO for for information and n/a.
3. The GS BPM Yupia via Doimukh SO for information and n/a.
4. Shri Nipen Chandra Kanu, S/o. Late L.N. Kanu Ex-Group D Ziro So.
5. The BF of the officials.
6. Office copy.

Sd/-
(M.A. Malai)
SDI(W) Itanagar.

Attended
for
26/6/02
Advocate

To, -

The Chief Post Master General,
North East Circle Shillong,
Meghalaya.

Sub:- PRAYER FOR REGULAR POST ON COMPENSATION GROUND.

Sir,

With reference to above I have the honour to inform you that I have been working as ES staff at Doimukh Branch Office since June'2002, in the month of June'2003

I had written a letter for my regularisation for the post in which my father was working on compensante ground. But till date no correspondence has been made from your esteem office. During the month of Oct'2003 to Dec'2003 I have been engaged officiating post in Group 'B' staff for 52 days only. After that now again I am working as ES staff at Naharlagun. For which I am facing acute financial problem to look after my family members. Since I am the only man to earn out livelihood after my father's death.

Therefore, it is requested to look into the matter sympathetically and consider the case on compensante ground at the earliest possible. If so shall be grateful to you.

With regards.

Yours faithfully,

22/1/04

(NIPEN KANU) ED(ED)
Naharlagun Post Office.

22/1/04

Attested
for
26/6/05
Admnstrator