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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A. No. 220/2007

R.A./C.P. No.

E.P./M.A. No. 82/07

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SECTION OFFICER (Judl.)

balika
06/10/2007

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 220/07

2. Miscellaneous Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant(s) Bimod, Ch. Bezboruah VS- Union of India & Ors

Advocate for the Applicants:- B. Chakraborty, S. Chakraborty

T.R. Sarma, Lohit Gogoi

Advocate for the Respondents:- R.C. S.C. G. Baishya

Notes of the Registry	Date	Order of the Tribunal
	24.8.07	

Application is in form

C.F. for Rs. 50/-

IPD/DB

326.040067

30.7.07

Registrar

Pha

Petitioners Gps for issue
notice one received with
envelopes. Copy served.

Pha
28/8/07

Notice & order sent
to D/Section for
issuing to R-1 to 5
by regd. A/D post.

UINo- 897 to 901

DI= 28/9/07.

This petition has been filed by the applicant praying for compassionate appointment. The case of the applicant is that his father died in harness on 2.8.2005. The applicant made application for appointment on compassionate ground under the scheme and guidelines, which was rejected by the respondents on the ground that there was no post to be filled up under 5% quota for compassionate appointment. Aggrieved by the said order the applicant has filed this application praying for compassionate appointment. There is a delay of 134 days in filing this application.

Heard Mr B. Chakraborty, learned counsel appearing for the applicant and Mr G. Baishya, learned Sr.C.G.S.C for the respondents. When the matter came up the counsel for the respondents submitted that notice may be issued to the respondents. Issue notice to the respondents.

Post on 10.10.07 for admission

Vice-Chairman

Service report
awaited.

10.10.2007

Mr. G. Baishya, learned Sr. Standing Counsel, appearing for the Central Government undertakes to file appearance memo and he seeks more time to file written statement. Prayer is allowed.

Call this matter on 07.12.2007, awaiting reply from the Respondents.

Sent copies of this order to the Respondents in the address given in the Original Application.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

Dt. 10.10.07.

P.L. Sent order copies to the Respondents

07.12.2007

No written statement has been filed as yet in this case.

Call this matter on 09.01.2008 awaiting written statement from the Respondents.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

09.01.2008

No written statement has yet been filed in this case.

order dt-10/10/07 sent to D/Section for issuing to R-14 and 5 by post and another R-2,3 received by hand.

This case relates to the claim of employment on compassionate ground. All details of the vacancy position etc and all details of persons appointed in 5% quota should be furnished in the written statement by the Respondents. A comparative chart between the Applicant and those who have received employment on compassionate ground (to the prejudice of the Applicant) should be furnished along with the written statement to be filed in this case.

Ces
18/10/07

W/S not filed.

6.12.07
W/S not filed.

Contd.
09.01.2008

On the prayer of Mr.G.Baishya, learned Sr. Standing counsel for the Union of India, time till 20.02.2008 is granted to the Respondents to put up their written statement; which should contain all details in a transparent manner.

Call this matter on 20.02.2008.

Send copies of this order to all the Respondents in the address given in the Original Application and a free copy of this order be handed over to Mr. G.Baishya, learned Sr. Standing counsel.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

Mr. S. Chakraborty, learned counsel for the Applicant is present. Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents wants to file written statement in this case. Case is adjourned to 14.03.2008.

Call this matter on 14.03.2008.

(Khushiram)

Member (A)

Lm

14.03.2008

On the prayer of Mr S.Chakraborty, learned counsel appearing for the Applicant, the case is adjourned to 23.04.2008.

(M.R.Mohanty)
Vice-Chairman

21.2.08.

P.L. Send copies of the order to all the Respondents

A free copy of this order be handed over to Mr. G.Baishya.

10/108

Order dt. 9/01/08
Sent to D/Section
for issuing to R-1 to
5 by post and another
copy issuing to Sr.C.C.S.C.
CAT, CHY-5.
/bb/

11/01/08. D/No-165 to 170
Dt- 11/01/08.
20.02.2008

3.3.08

W/S filed.
Copy served.

10/108

W/S filed.

22.4.08.

O.A.220 of 07

23.04.2008 For the reasons recorded separately, the
O.A. stands disposed of.

22.5.08

budget issued
vide D/NO 2022 to
2029 D.S.S.O.
alongwith the copy
to the K/ADV. for
the party.

im

(M.R.Mohanty)
Vice-Chairman

Issued vide
D/NO 2022 to 2029
D.S.S.O.

24/10/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No 220 of 2007

DATE OF DECISION: 23.04.2008

* Shri Binod Chandra Bezbaruah

.....Applicant/

Mr. S.Chakraborty

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.G. Baishya, Sr.C.G.S.C

..... Advocate for the
Respondents

CORAM

THE HON'BLE MR.MONORANJAN MOHANTY.VICE-CHAIRMAN

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


Vice-Chairman/Member

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 220 of 2007

This the 23rd Day of April, 2008

HON'BLE MR.MANORNAJAN.MOHANTY, VICE-CHAIRMAN

Sri Binod Bezbaruah
S/O Late Madhab Chandra Bezbaruah
Village-Gamarimuri
Post Office-Kaithalkuchi
District-Nalbari, Assam Applicant

By Advocate Mr.B.Chakraborty, Mr.S.Chakraborty,
Mr.T.R.Sarma

-Versus-

1. Union of India to be represented by its Secretary to the Ministry of Small Scale Industries, Nirman Bhawan, New Delhi.
2. The Director
Small Industries Service Institute
Bamunimaidam, Guwahati-21
3. The Deputy Director(Administration)
Small Industries Service Institute
Bamunimaidam, Guwahati-21
4. Development Commissioner,
Small Scale Industries,
Nirman Bhawan, New Delhi
5. Section Officer(Administration)
Small Scale Industries
Nirman Bhawan, New Delhi. Respondents.

Mr.G.Baishya, Sr.C.G.S.C.

ORDER (ORAL)
23.04.2008

M.R.MOHANTY,V.C:

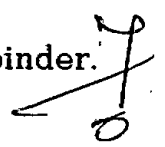
One Shri M.C.Bezbaruah, while serving under the Respondents Organization as a Peon, died prematurely on 02.08.2005 leaving behind the widow, two unmarried/ unemployed daughters and two unemployed sons. Prayer of the distress family, to get an employment

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on compassionate ground, to one of the members of the family, having been turned down by the Respondent Organization, they have filed the present Original Application filed under Section 19 of the Administrative Tribunal Act, 1985.

2. By filing a written reply, the Respondents have disclosed that the family of the deceased Peon are getting 'Family Pension' of Rs.3,075/- per month and got lump sump amount of Rs. 2,37,586/- from DCRG; Rs.5000/- from Group Insurance; Rs.9,829/- from G.P.F and Rs. 1,198/- from leave encashment of deceased Government servant. It is the positive case of the Respondents that, 5% of direct recruitment vacancies in Group C & D posts (having been set apart for compassionate appointment) not being available, no employment could be provided to the Applicant (son of the deceased Government servant) and, as such, he has not been able to get an employment on compassionate ground. Respondents have also submitted that whatever posts were available, under the compassionate appointment quota, have already been granted to deserving cases between the year of 1973 to 2001 and that seven persons have already been appointed under compassionate employment quota and that three persons (including the Applicant) are still in waiting list as on date and that they have not been able to get employment on compassionate ground. Respondents have also fairly disclosed that two posts of LDC, two posts of Helper, two posts of Peon, one post of Farash and one post of Skilled Worker Grade II are lying vacant in different DIs. of the Respondents' Organization at Guwahati, Silchar, Tura and Tezpur since 2006 -07.

2. Despite opportunity, the Applicant has not filed any rejoinder.



3. Heard Mr.S.Chakraborty, learned counsel appearing for the Applicant and Mr.G.Baishya, learned Sr.Standing Counsel appearing for the Respondents department/Organization and perused the materials placed on record.

4. There is no dispute that deceased Government servant has left behind a heavy family with two unmarried/ unemployed daughters and two unemployed sons and the widow. It has not been disputed by the Respondents that the Applicants are in distress with a paltry sum of Rs.3000/-as Family Pension; which is a very small amount for a family of five persons. Only problem before the Respondents is that there are no clear vacancy to be filled up on compassionate ground.

5. A family of a deceased Peon, with 2 grown up un-married daughters, needs immediate help for sustenance. On the other hand, although satisfied, the Respondent Organisation is not in a position to provide an employment to one of the members of the family, although vacancies are there, because of the 5% clause stated above. The family needs immediate assistance; at least for a minimum dignified living till the marriage of the 2 daughters of the family. In absence of any prohibition to give temporary engagement^{to} one of the male members of the family (as against existing vacancies) can solve the problem for now.

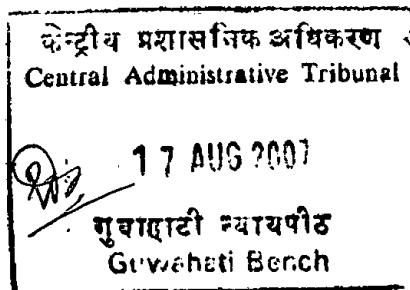
6. Since some vacancies are there in Group C and D posts at the disposal of the Respondents, they should consider to provide a purely temporary engagement to the present Applicant as against any of the vacant Group C and/or Group D posts (as the Applicant, is a Matriculate) in order to, mitigate immediate penury condition of the family; and such arrangement can be allowed till Respondent

Organization finds out a suitable/appropriate vacancy to provide regular compassionate appointment to the Applicant.

7. With this above observations, this O.A. stands disposed of.

Followed
23/04/08
(M.R. MOHANTY)
VICE-CHAIRMAN

LM



IN THE CENTRAL ADMINISTRATION TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. NO- 220 /2007.

Binod Chandra Bezbaruah ----- Applicant
Versus
Union of India and others ----- Respondents

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Filed by

Rohit Gogoi
Advocate, Guwahati

IN THE CENTRAL ADMINISTRATION TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. NO- 220 /2007.

Binod Chandra Bezbaruah ----- Applicant
Versus
Union of India and others ----- Respondents

SYNOPSIS

The father of the applicant while serving as a peon in the office of the Respondent No-2 expired in harness on 2.8.2005. The applicant made an application for his appointment on compassionate ground under the prevalent guideline which was rejected by the authorities on the ground of that there was no vacancy under the 5% quota for compassionate appointment. Hence this application.

LIST OF DATES

- 02-08-2005 - The father of the applicant died in harness.
- 18-08-2005 - Applicant applied before Respondent No-2 for his appointment on compassionate ground. (Annexure-2)
- 7.12.2005 - Impugned letter was issued to Respondent No-2 stating that the Applicant could not be appointed on compassionate ground as the 5% quota for compassionate appointment had already been filled up. (Annexure-3)
- 7.3.2006 - Applicant yet again applied before Respondent No-4 praying for appointment on compassionate ground. (Annexure-4)
- 20.3.2006 - Applicant was informed that the quota for compassionate appointment had already been filled up. (Annexure-5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI

(An application under section 19 of the Administrative Tribunal Act, 1985)

Sri Binod Bezbaruah

S/O- Late Madhab Chandra Bezbaruah

Village- Gamarimuri

Post Office- Kaithalkuchi

District- Nalbari, Assam

.... Applicant

-Versus-

1. Union of India to be represented
by its Secretary to the Ministry of Small
Scale Industries, Nirman Bhawan, New
Delhi.

2. The Director
Small Industries Service Institute
Bamunimaidam, Guwahati-21

3. The Deputy Director
(Administration)
Small Industries Service Institute
Bamunimaidam, Guwahati-21

4. Development Commissioner
Small Scale Industries
Nirman Bhawan, New Delhi

5. Section Officer (Administration)
Small Scale Industries
Nirman Bhawan, New Delhi

.... Respondents.

Sri Binod Bezbaruah
Filed by Applicant
through Lokhit Gogoi
Advocate, 2/8/07

1. **Particulars of the orders against which the application is made: -**

Letters dated 7/12/2005 issued by the Deputy Director (Administration) and 20/3/2006 issued by the Section officer (Administration) whereby the prayer of the petitioner for compassionate appointment was rejected on the ground that 5% quota for compassionate appointment in grade "C" or "D" posts has already exhausted.

2. **Jurisdiction of the Honb'le Tribunal: -**

The applicant declares that the subject matter of the order against which relief is sought for is within the jurisdiction of the Honb'le Tribunal.

3. **Limitation: -**

The applicant declares that the application is within the limitation 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 permanent resident of the above mentioned locality.

2. That the applicant has passed Praveshika Examination in Prayog Ratnamala Vyakaran conducted by Assam Sanskrit Board in the 2002 from Chandrakanta Vidyalaya. The applicant has also completed the Trade Test in the Trade of Electrician in 2006 from Industrial Training Institute (ITI), Nalbari.

Copies of the certificates are enclosed herewith and marked as ANNEXURE-1 (Series).

Bezbarwal

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3. That the father of the applicant Madhab Chandra Bezbaruah died in harness on 2.8.2005^{while serving} as a peon on regular basis in Small Industries Service Institute, Guwahati-21.

4. That the father of the applicant was the only bread earner of the family and after his death there is no earning member who can look after the bereaved family. The family of the applicant consists of his mother, two unmarried sister and one unemployed brother and himself. There is no other earning source for the family members of the applicant and the entire family of five members has been surviving with the nominal pension of the father of the applicant.

5. That after the death of the father of the applicant prayer was duly made before the Respondent No-2 on 18.8.2005 for appointing the applicant against any Grade C or Grade D posts on compassionate ground, which was duly received in the Office of the Small Industries Service Institute on 7.9.2005 vide Receipt No 3119.

A copy of the application-dated 18.8.2005 is enclosed herewith and marked as ANNEXURE-2.

6. That the applicant received no formal communication as regards the prayer for appointing the applicant on compassionate ground. However on enquiry made by the applicant, the local Small Industries Service Institute handed over a photocopy of Letter No- A-12012/7/2005-A (NG) dated 7.12.2005 issued by the Deputy Director (Administration) to the Director, Small Industries Service Institute, Guwahati wherein it is stated that the 5% quota for compassionate appointment as per the instructions of DOPT OM No- 14012/6/94 dated 9.10.1998 have already been utilized in Small Industries Service Institute (SISI), Guwahati, and as such the prayer of the applicant can not be accepted.

A copy of the letter-dated 7.12.2005 is annexed herewith and marked as ANNEXURE- 3.

Bezbaruah

7. That thereafter prayer before the Development Commissioner was made on 7.3.2006 for appointing the applicant against a Grade C or Grade D posts on compassionate ground. It was also mentioned in the application that the applicant is willing to accept posting anywhere in the country.

Copy of the application-dated 7.3.2006 made before the Development Commissioner is annexed herewith and marked as ANNEXURE-4

8. That pursuant to the application dated 7.3.2006 letter was issued on 20.3.2006 to the Director, Small Industries Service Institute (SISI), Guwahati by the Section Officer (Administration) (Respondent No-5) stating inter-alia that as the 5% quota for compassionate appointment has already been exhausted in Small Industries Service Institute (SISI), Guwahati and in SIDO as such the request for appointing the applicant on compassionate ground can not be acceded to.

A copy of the letter-dated 20.3.2006 is annexed herewith and marked as ANNEXURE-5.

9. That the applicant states that the action of the authorities in rejecting the prayer for his appointment on compassionate ground is illegal and arbitrary in as much as that the authorities have not properly considered the application in accordance with law. The applicant further states that he has come to know from reliable source there are many Grade "C" and "D" posts are lying vacant against the compassionate appointment quota also and the authorities have arbitrarily rejected is application. The applicant states if the authorities are asked to furnish the relevant particulars in connection with the vacancy position for the quota under compassionate appointment the true picture would come to light. The authorities have issued the order mechanically just to decline appointment to the applicant in an unfair and unreasonable manner. The applicant further states that he is prepare to serve anywhere and as such the authorities declining the application of the applicant with reference to the Guwahati Office is uncalled for and not tenable in law and the applicant's application ha to be considered as regards the overall vacancy position.

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5. **Grounds for relief with legal provisions: -**

I. For that immediately after the death of his father the applicant duly made application for his appointment on compassionate ground under the prevailing scheme and guideline of the corporation as regards compassionate appointment and the action of the authorities in rejecting the application on the ground of lack of vacancies is not maintainable in law and as such the impugned orders/letters dated 7.12.2005 and 20.3.2006 are not maintainable in law and are liable to be quashed and set aside.

II. For that the family of the applicant has no substantive source of income and it is a fit case for consideration and giving appointment to the applicant on compassionate ground under the policy guideline in vogue and as per law in as much as in the matter of giving appointment on compassionate ground the authorities have to first reach a decision as to whether the applicant's family is a fit one for such compassion in view of the income and financial status as because compassionate appointment is not given as a matter of course. It is submitted that once the authorities reach a decision that the family of the deceased employee deserves such an out of turn appointment, such appointment should be given immediately and without any delay and in the event there is no vacancy for such appointment, supernumerary posts to be created for giving such appointment. As such the action of the authorities in rejecting the claim of the applicant for compassionate appointment for lack of vacancy is not maintainable and the applicant is entitled for compassionate appointment.

III. For that the applicant states that the guideline relied upon by the authorities for rejecting the claim of the applicant in declining him appointment on compassionate ground is illegal and not maintainable in law and the guideline is liable to be set aside.

IV. For that the very purpose of providing appointment on compassionate ground is to mitigate the hardship due to the death of the bread earner in the family. Such appointment should therefore be made immediately to redeem the family in distress. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant. So the action of the authorities in not appointing the applicant

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on the ground that the 5% quota has been fulfilled is bad and not maintainable in law.

V. For that in the family of the applicant there is no earning member who can save the family in distress or any other source of income and the entire family has been feeding on the nominal pension of the father of the applicant who died in harness. After the death of the sole earning member the entire family is in starvation and it is the bounded duty of the Government to save the family from distress. As such the action of the authorities in denying the appointment to the applicant is illegal and bad in law.

VI. For that the applicant possesses the qualification to be appointed against any grade "C" or grade "D" posts and in view of the prevailing situation of the family of the applicant the prayer made before the authorities for appointing the applicant on compassionate ground is appropriate and the action of the authorities in denying the appointing the applicant under the pretext that 5% quota for the compassionate appointment has already filled up is bad and illegal.

6. **Details of the remedies exhausted: -**

The applicant made application on 18.8.2005 before the Director, Small Industries Service Institute, (Respondent No-2) for appointing the applicant on compassionate ground after the death of his father in harness and after getting the information that the authorities have denied to appoint the applicant, he approached the Development Commissioner, Small Scale Industries, New Delhi (Respondent No-4) with an application dated 7.3.2006. However the applicant received a letter issued by the Respondent No-5 stating that the 5% quota for compassionate appointment has already been filled up so applicant cannot be appointed. The applicant has no other alternative relief but to approach this Hon'ble Tribunal.

7. **Matter not previously filed or mending before any other Court:-**

The applicant declares that he has not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this

Bezborov

Application has been made, before any Court or any other bench of the Tribunal, nor any such application, writ petition, suit is pending before any of them.

8. Prayer:-

In the premises aforesaid, it is, therefore prayed that Your Lordships may be pleased to admit this application, issued notices to the respondents to show cause as to why the impugned letters/ orders dated 7.12.2005 and 20.03.2006 (Annexure-3 & 5) shall not be quashed and set aside and as to why an appropriate direction shall not be issued to the authorities to consider the application of the applicant for compassionate appointment to any grade "C" or "D" posts, call for the recorded and after hearing the causes shown, if any, by the respondent, may be pleased to grant the above relief as prayed for and /or pass such other /o orders as your Lordships may deem fit and proper.

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

9. Interim order :-

The application has prayed for no interim order.

10. Does not arise.

11. Particulars of the Bank Draft/ Postal Order in respect of the application fee :-

- (i) I.P.O No-
- (ii) Date -
- (iii) Issued by -
- (iv) Payable at

12. List of enclosures :- As stated in the INDEX

Bezborov

VERIFICATION

I, Sri Binod Ch. Bezbaruah, son of Late Madhab Chandra Bezbaruah, aged about 25 years, Resident of Village -Gamarimuri, Post office - kaithalkuchi, District: Nalbari, Assam do hereby verify that the contents of the paragraphs (1), (2), (3), (4), (5), (6), (7), (8) and (9) are true to my personal knowledge and the paragraphs ... are believed to be true on legal advice and that I have not suppressed any material facts.

Date- 02/08/07

Place- Guwahati.

Sri Binod Bezbaruah.



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OFFICE OF THE CHANDRAKANTA VIDYALAYA, GAMARIMURI



P.O. Gamarimuri ■ Dist. Nalbari (Assam)

পৰিচয় পত্ৰ

শ্রী বিনয় বেজবৰুৱা জিলাভূগত পাৰ্বতীচক্ৰ নিবাসিনঃ
 / শ্রীমতী বিনয় বেজবৰুৱা আত্মজঃ / আত্মজা শ্রীমান
 গৃহীত বিনয় বেজবৰুৱা শাস্ত্ৰ ২৫২ শ্রীষ্টান্দীয় অসম সংস্কৃত সমিতিঃ
বিনয় বেজবৰুৱা শাস্ত্ৰ ২৫২ পৰীক্ষাঃ
 বিভাগে চক্ৰকান্ত বিদ্যালয়তঃ সমুদীৰ্ণোহভবৎ ।
 অন্য / অন্যঃ অধ্যয়ন কার্যে নৈপুণ্যং পবিনক্ষ্যতে ।
 শীলমপি সাধুঃ । ইত্যন্য ।

CERTIFICATE

Certified that Sri Binod Bezbarua Son/Daughter of Sri/Life Madhale Bezbarua
 an inhabitant of village / town Gamarimuri P.O. Kaishal Kuchi P.S. Belpara in
 the District of Nalbari (Assam) had passed/sailed the Pravasi/Madhyama/Safri Examination in Pr. Ratna mala vyakaran
 by Assam Sanskrit Board in ২০২২ as a regular/Private candidate and was placed in the II Division from
Chandrakanta Vidyalyaya Gamarimuri. His/her date of birth as per admission register of the Vidyalyaya is ৩০-০৬-৪৬
 His/her conduct and character are very good / good.
 I wish him/her all success in life.

Dated ১৪.১০.২৩

Office Seal

Signature
 of the Pradhan Adhyapaka

Certified to be true copy

Advocate
 Gauhati High Court



सत्यमेव जयते

ANNEXURE - 10

Serial No. RA 05251

GOVERNMENT OF ASSAM
DIRECTORATE OF EMPLOYMENT AND CRAFTSMEN TRAINING
PROVISIONAL TRADE CERTIFICATE

Shri/Shrimati/Kumari BINOD BEZBARUAH Roll No. E-3
Son/Wife/Daughter of Shri MADHAB BEZBARUAH
having completed the course of training at INDUSTRIAL TRAINING INSTITUTE
NALBARI and passed the prescribed Trade Test in the Trade of
ELECTRICIAN held in the month of AUGUST 2006
TWO THOUSAND SIX is awarded this Certificate provisionally.

The Trade Certificate will be issued by the State Council for Vocational Training
Period of Training: From AUGUST 2004 to JULY 2006
CHARACTER GOOD

TRADE TEST MARKS

SUBJECT	MAX. MARKS	MARKS OBTAINED
1) Practical (Including Sessional)	400	257
2) Trade Theory	120	52
3) Workshop Calculation & Science	60	37
4) Engineering Drawing	70	40
5) Social Studies	50	29
TOTAL	700	415

Date of birth as recorded in the School Certificate 30-06-1984

Full Signature of certificate holder Binod Bezbaruah

Date _____

Certified to be true copy

Prepared by [Signature]
Checked by [Signature]

Signature of the
Head of the Institute
Nalbari

Secretary

State Council for Vocational Training
Assam, Guwahati

ANNEXURE - 2

To
The Director,
Small Industries Service Institute,
Bamunimaidam,
Guwahati-21.

Sub: - Prayer for Compassionate appointment of Sri Binod Bezbaruah,
S/o. Late Madhab Ch. Bezbaruah, Ex-Peon.

Sir,

Most humbly and respectfully, I Smt. Kanchan Bezbaruah Widow of Late Madhab Ch. Bezbaruah, Ex-Peon SISI, Guwahati-21, beg to put for the following few lines for your kind consideration and sympathetic necessary action please.

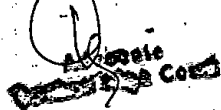
That my husband expired suddenly on 2nd August, 2005 leaving two unmarried daughters and two unemployed sons. There is not a single earning person who can manage day-to-day bread expenses of our family. Now, the entire family of 5 members will have to depend upon the pension of my husband, which is very little for us to survive.

My son namely, Sri Binod Bezbaruah is now reading ITI at Nalbari. He has passed H.S.L.C exam.

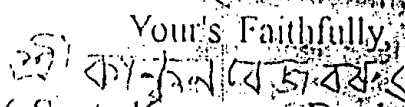
If a Govt. service can be given to him as a compassionate appointment then not only me, but also the entire family will be grateful to you and obliged.

I enclosed all documents of Sri Binod Bezbaruah here with this application.

Certified to be true copy



Kaithalkuchi, Dated
the 18/08/05

Yours Faithfully,

(Smt. Kanchan Bezbaruah)

To,

Date: 7th March, 2006

The Development Commissioner,
Small Scale Industries
Nirman Bhawan (7th floor)
New Delhi.

Sub: Prayer for appointment on compassionate ground of Sri Binod Bezbaruha, S/o. late Madhab Chandra Bezbaruha Ex. Peon SISI Guwahati.

Ref: Yours latter no – A 12012/7/2005 – A (NG) dated 07.12.05 addressed to the Director SISI Guwahati for communication to our son Sri Binod Chandra Bezbaruah.

Respected Sir,

You are very kindly aware that god suddenly snatched away my beloved husband late Madhab Chandra Bezbaruah an office peon in SISI Guwahati under your administrative control on 2nd August, 2005 leaving two marriageable daughter and two unemployed sons and myself to mourn his death. I have not yet recovered from the severe shock, I received in my life somuch so my late husband was the only bread earner in the family.

that sir, I made an appeal to your honour vide my prayer dated 18/08/2005 (docated in SISI Guwahati on 07/09/05 against receipt no 3119) through the Director SISI, Guwahati praying for appointment of one of my two son namely Sri Binod Bezbaruah on compassionate ground since my husband died while in office to save the family of five members for their survival. A copy if my above prayer is enclosed for ready reference.

that sir, I have not received formal official communications either from your honour or from the Director SISI, Guwahati as yet. However, my son Sri Binod Bezbaruah while enquiring the fate of my prayer, the local SISI office handed over a photo copy of your letter referred to above recently. From the photo copy of the letter

Contd/2

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I have come to understand that my prayer for appointment of my son on compassionate ground has not been acceded by your honour on the ground that 5% quota in SISI, Ghj has been already utilized.

that sir, in my earlier prayer it will be seen that I had only made an appeal to your honour to appoint my son Sri. Binod Bezbaruah against available vacancy of group 'D' post irrespective of the place of posting.

that sir, in the circumstances stated above, I have no other alternative than to approach your good self to reconsider my prayer to appoint my son Sri. Binod Bezbaruah against group 'C' or group 'D' post in any part of the country under your administrative control to save the bereaved members of his family from starvation death. Hence this second prayer before your honour for reconsideration.

I am hopefully awaiting to hear with tearful eyes from your honour for posting of my son Sri. Binod Bezbaruah on compassionate ground as prayed above to compensate untimely and unexpected death of my beloved husband late Madhab Chandra Bezbaruah before his retirement from active Govt. service.

With highest regards and humble submission on your feet.

Yours faithfully,

Address:

Vill — Gamarimuri
P.O. — Kaithalkuchi
P.S. — Belsor.
Dist — Nalbari (Asom)
PIN — 781370

কমলিনী বৰুৱা

(Widow of late Sri Madhab Chandra Bezbaruah)

Certified to be true

Signature
Certified to be true

No. A-12012/7/2005-A(NG)
Government of India
Ministry of Small Scale Industries
Office of Development Commissioner
(Small Scale Industries)

Nirman Bhawan, New Delhi
The 20th March, 2006

To

The Director
SISI,
Guwahati.

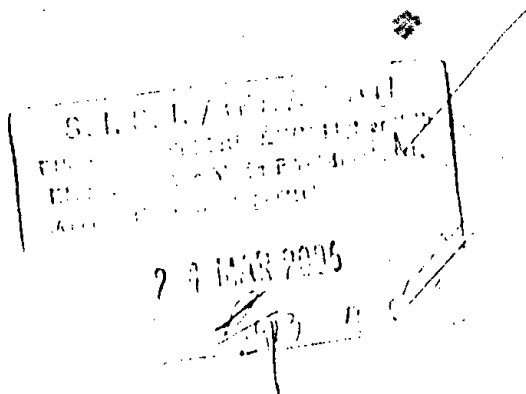
Subject :- Request for appointment on compassionate ground of Shri Binod Bezbaruah, S/o late Shri Madhab Chandra Bezbaruah, Ex-Peon, SISI, Guwahati for the post of peon.

Sir,

I am to refer to the letter dated 7.3.2006 of Smt. Kanchan Bezbaruah, w/o late Shri Madhab Chandra Bezbaruah, Ex-Peon, SISI, Guwahati, requesting for compassionate appointment of her son Shri Binod Bezbaruah, at any place in SIDO. In this regard, it is stated that 5% quota for compassionate appointment in Gr."C" and "D" posts has already exhausted in SISI, Guwahati and SIDO as a whole. Hence, the request of Smt. Kanchan Bezbaruah can not be acceded to. The applicant may be informed accordingly.

Yours faithfully,

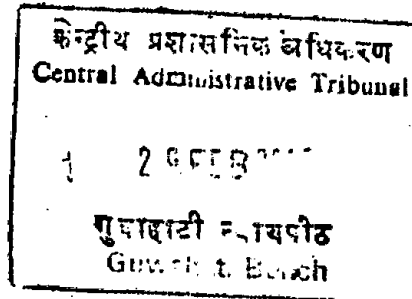
(Rajender Kumar)
Section Officer(Admn.)



Certified to be true copy

Guwahati Court

R. T. V.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No.220 OF 2007

Sri Binod Bezbaruah

...Applicant

-Versus-

Union of India & Ors.

....Respondents

INDEX OF THE WRITTEN STATEMENT

SL.NO.	PARTICULARS	PAGE NOS.
1.	Written statement	1 - 4
2.	Verification	5
3.	Vacancy position	6 - 7

Copy received.
T.R. Sarma.
Advocate
29/2/08

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 220 OF 2007

Sri Binod Bezbaruah,

... Applicant

-Versus-

Union of India & Ors.

.... Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

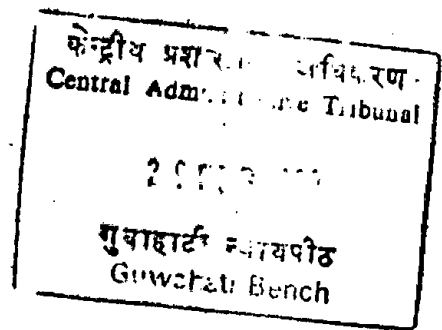
1. That with regard to the statement made in paragraph 1 of the instant application the Respondents beg to state that Shri Binod Bezbaruah i.e. the applicant had submitted an application dated 20.9.2005, in the office of Director, MSME-DI, Guwahati for compassionate appointment to the applicant and it was found not feasible to grant compassionate appointment to the applicant as no vacancy in Group C or D posts could be found under the 5% quota for compassionate appointment. The applicant was informed accordingly, vide letter dated 7.12.2005. Another request dated 7.3.2006 for compassionate appointment to the applicant at any place in MSME-DO was received from Smti Kanchan Bezbaruah widow of the deceased Government servant. This was also * as 5% quota in Group C or D posts for compassionate *
*considered, but it has not been found feasible to accede to the same

Contd...P/-

Nityananda Deb Nath

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through Government Procurement



[2]

appointment in MSME-DI, Guwahati and MEME-DO as a whole has been exhausted. The position was communicated to her vide letter dated 20.03.2006.

2. That with regard to the statement made in paragraph 2 & 3 of the instant application the Respondents have no comment.

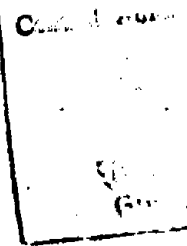
3. That with regard to the statement made in paragraph 4.1 to 4.8 of the instant application the Respondents beg to state that those are matters of record and the respondents do not admit anything which is borne out of record.

4. That with regard to the statement made in paragraph 4.9 of the instant application the Respondents beg to state that the requests of the applicant were considered as per the provisions of Government of India Scheme for Compassionate appointment and the same were not acceded to as the 5% in under Group "C" and "D" quota for providing compassionate appointment got exhausted.

5. That with regard to the statement made in paragraphs 5.I to 5.VI of the instant application the Respondents have beg to state that immediately after the demise of the deceased Government servant his family was paid all the terminal benefits due to them, such as family pension Rs.3,075/- per month, DCRG of Rs.2,37,586/- Group Insurance Rs.5000/- GPF Rs.9,829/- leave encashment Rs.1,198/-.

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Nityananda Debnath



The contention of the applicant of having not properly considered his requests by the authorities is not tenable as his request for compassionate appointment was considered strictly in accordance with the provisions of Government of India Scheme for Compassionate Appointment. There is no provision in the said scheme for creation of supernumerary post to accommodate a compassionate appointment seeker.

The respondents submit that the Supreme Court in its judgment dated 16.11.2006 in CA No. 4996 of 2006 has held as under.

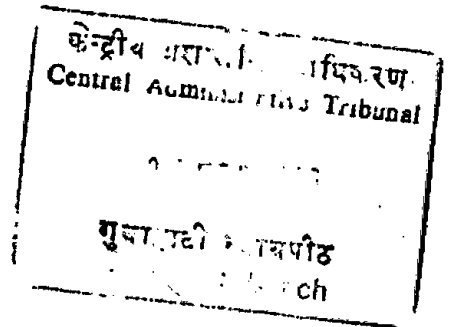
"...Orders for creation of posts, appointment on these posts, regularisation, fixing pay scales, continuation in service, promotion etc. are all executive or legislative functions and it is highly improper for Judges to step into this sphere, except in rare and exceptional case. The courts must exercise judicial restraint in this connection and not encroach into the executive or legislative domain."

Further the respondents beg to state that the grounds set forth by the applicant in the instant application are not good grounds and also not tenable in the eye of law and as such the instant application is liable to be dismissed.

6. That with regard to the statement made in paragraphs 6, 7 & 8 of the instant application the Respondents have no comment.

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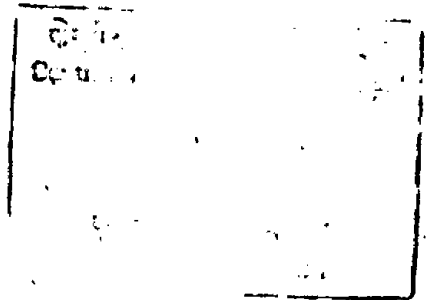
Nityananda Debnath



7. That with regard to the statement made in paragraph 9 of the instant application the Respondents beg to state that the claim of the applicant is illegal and illfounded and as such the applicant is not entitled to get any interim relief.

8. That the respondents beg to submit that the claim application has no merit and as such the same is liable to be dismissed.


Nityananda Deb Nath



VERIFICATION

I, **NITYANANDA DEBNATH** S/o. **Late Harimohan Debnath**
aged about years, R/o **Guwahati**
District **Kamrup (Assam)** and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras **1 - 8** are true
to my knowledge and those made in paras —
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 have not suppressed any material
fact.* And I sign this verification on this **18th** day
of **February/** 2008 at Guwahati.

Nityananda Debnath


Signature
পিতা
Director
জিলা/গোৱাহাটী
HOME-D.O.
জিলা/গোৱাহাটী

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Comparative chart showing persons appointed under compassionate quota and the application pending for appointment under compassionate quota

S. No.	Name of the person received appointment on compassionate ground	Date of appointment	S. No.	Name of the applicant (and their date of application)
1.	Mrs. Neela Dutta, Peon MSME-DI, Guwahati	1.2.1973	1.	Shri Krishna Barman S/o Late Mrs. Nani Barman, Ex-UDC(18.02.2003)
2.	Mrs. Chaitipawati Mahanta, LDC Br. DI, Tezpur	2.7.1990	2.	Ms. Feliarich I. Rynhj D/o late B. Lyndoh, Ex-UDC(26.05.2004)
3.	Mrs. Iswara Devi, Peon MSME-DI, Guwahati	5.3.1993	3.	Shri Binod C. Bezbaruah S/o Late Shri M.C. Bezbaruah(9.9.2005)
4.	Shri Alok Sarkar, UDC MSME-DI, Guwahati	30.06.95		
5.	Mrs. Ira Das Singh, Sweeper MSME-DI, Guwahati	9.2.2000		
6.	Mrs. Bimla Prabhu Kalita, LDC MSME-DI, Guwahati	16.02.2000		
7.	Mrs. B. Bhuyan, LDC MSME-DI, Guwahati	9.2.2001		


DOD-28-09

निदेशक
 Director
 एम.एस.एम.डी. - वि.प.
 MSME-D.I.
 गुवाहाटी, असम - 781 001

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Total No. of posts lying vacant in and under MSME-DI, Guwahati as on date 21/12/2007 37

S. No.	Post	No. of vacant posts(date of vacancy)
MSME- DI, Guwahati		
1.	LDC	1 (1.2.2007)
2.	Helper	1 (20.12.2007)
3.	Peon	1 ((1.9.2007)
4.	Farash	1 (1.6.2006)
Br. DI, Silchar		
5.	Skilled Worker Gr.II	1 (19.06.2006)
6.	Helper	1 (20.12.2007)
Br. DI, Tura		
7.	Peon	1 (16.11.2006)
Br. DI, Tezpur		
8.	LDC	1 (1.07.2006)
Total Vacancy		8


 Director
 एम.एस.एम.ई.- दि.ई.
 MSME-D.I.
 गुवाहाटी/ Guwahati- 21