

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No O.A.269/2007

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SECTION OFFICER (Judl.)

Saliba
10/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 269/07

2. N.L.B's Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s). P. J. Mudoi.....VS-Union of India & Ors

Advocate for the Applicants. S.C. Biswas, S.D. Das, H. Chanda
B. Chaudhury.....

Advocate for the Respondent(s). AM. CASC. M. Das.....

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

This application is in form
is filed C. F. for Rs. 50/-
deposited with IFC/ED
No. 326043201
Dated 8.10.07

09.10.07. Heard Mr. S.C. Biswas learned
counsel appearing for the applicant and
Mrs Manjula Das, learned Addl. Standing
Counsel appearing for the Central
Government.
Issue Notice to the Respondents
requiring them to file reply.

Call this matter on 07.12.07.

Petition's copy but
issue notice one
received with envelope
copy handed over
given for service
C.P.M., Excess Resf
submitted.

(Khushiram)
Member(A)

(Manoranjan Mohanty)
Vice-Chairman

07.12.2007 No written statement has been filed
in this case as yet.

Call this matter on 18.01.2008
awaiting written statement from the
Respondents.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

Pl. issue Notices

Received on
behalf of Mrs. Manjula Das
/bb/
Add. CASC
N. D. Singh

08.01.2008

Notice & order sent
to D/Section for
issuing to resp.
nos. 1 to 6 by regd.
A/D post.

D/No - 1110 to 115

16/10/07. Dt = 31/10/07.

① Service report
awaited.

2
6/12/07.

Notice duly served
on 2-12-

7.1.08.

No written statement has yet been filed in this case. Mrs.M.Das, learned Addl. Standing counsel for the Union of India (who is appearing for the Respondents in this case, by filing appearance memo) states that she has received some instructions/para wise comments from the Respondent No.6 and she requires more time to file written statement.

This case relates to denial of the prayer of the Applicant for an employment on compassionate ground. It appears that on 3 occasions the case of the Applicant received consideration and after 4th consideration he has approached this Tribunal with the present O.A. While filing written statement/reply in this case, Respondents should clearly state as to how the case of the Applicant received consideration on 3 occasions and the consideration in which his case did not receive favourable consideration/ even, on the 4th occasion. Respondents should produce the records of all the 4 occasions of consideration and the comparative chart of the claimants under compassionate appointment are also to be produced by the Respondents. Details of the vacancy position and all the persons who received benefits of compassionate appointment should also be produced / stated in the written statement by the Respondents.

Call this matter on 20.02.2008 awaiting written statement from the Respondents.

Contd

Contd.
08.01.2008

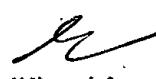
Send copies of this order to the Respondents in the addresses given in the O.A. and they should file their written statement (with all the materials, documents and details) well before 20th February, 2008.

Dt. 8.1.08.
P1. Send order copies to the learned counsels. Free copies to the learned counsels for both the parties.

Free copies of this order be supplied to the learned counsels appearing for both the parties.

order dt. 8/1/08
issuing to learned
advocate/s for both
the parties.

/bb/


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

cas D/No-102, 103 20.02.2008
9/1/08. Dt= 10/1/08.

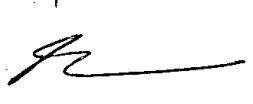
No one for the Applicant. Mrs. M. Das, learned Addl. Standing Counsel appearing or the Respondents wants to file written statement in course of the day.

Application is admitted. Rejoinder, if any, may ^{be} filed by the Applicant before the next date of hearing.

Call this matter on 28.4.2008 for hearing.

21. 2. 08
W/s filed by
the Respondents.
undertaking given
for service.




(Khushiram)
Member (A)

order dt. 10/2/08
issuing to learned
advocate for both
the parties.

21/4/08. D/No-1787, 1788
Dt= 22/4/08.

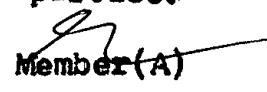
W/s filed.

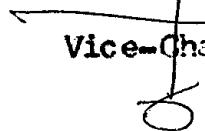

30.5.08

10.4.2008

This case which was posted to
xxxx 28.4.2008, is now postponed/re-scheduled
to be listed on 1.6.2008.

Send copies of this order to both
parties.


Member (A)


Vice-Chairman

O.A.269/2007

02.06.2008

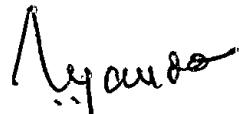
Call this matter on 08.07.2008.


(Khushiram)
Member (A)

/bb/

08.07.08 Mr S.C.Biswas, learned counsel for the Applicant is present. Mrs M. Das, learned Addl. Standing Counsel for the Respondents is on accommodation.

Call this matter on 21.08.2008.

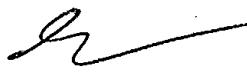

(R.C.Panda)
Member(A)


(M.R.Mohanty)
Vice-Chairman

pg

21.08.2008 Heard Mr S.C. Biswas, learned Counsel appearing for the Applicant, and Mrs M. Das, learned Counsel appearing for the Respondents, and perused the materials placed on record. Hearing concluded.

For the reasons recorded separately, this case stands disposed of.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

nkm

Received copy for
Mrs. M. Das
Addl. C.G.S.C
Nimishwar Vashisht
Advocate
28/08/08

28.8.08
Copy of the order
sent to the Office
for issue the same
to the Applicant as well
as to the Respondents
PFS


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 269/2007.

DATE OF DECISION :21 -08 -2008.

Shri Parag Jyoti MudoiApplicant/s

Mr S. C. BiswasAdvocate for the
.....Applicant/s

-Versus -

Union of India & Ors.Respondent/s

Mrs M. Das, Addl. C.G.S.CAdvocate for the
.....Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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

Vice Chairman/Member(A)

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 269/2007.

Date of Order : This the 21st Day of August, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Parag Jyoti Mudoi,
S/o Late Thaneswar Mudoi,
R/o Village Puranitelig,
P.O. Nagsankar, Pin 784183.
District Sonitpur, Assam

.....Applicant

By Advocate Shri S.C.Biswas

•Versus•

1. Union of India
through the Secretary to the Govt. of India,
Ministry of Defence,
Raksha Bhawan, New Delhi.
2. The Engineer-in-Chief's Branch,
Army Head Quarters,
D.H.R., New Delhi.
3. The Head Quarter,
Eastern Command,
Engineer's Branch,
Fort William, Kolkata-21.
4. Commander,
Works Engineer (C.W.E)
Tezpur, P.O. Dekargaon,
District Sonitpur, Assam.
5. H.Q. Chief Engineer,
Shillong Zone,
S.E. Falls, Shillong 793011.
6. Garrison Engineer,
Tezpur, P.O. Dekargaon,
District Sonitpur, Assam.

.....Respondents

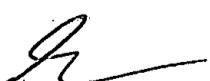
By Mrs M. Das, Addl. C.G.S.C.



ORDER (ORAL)MANORANJAN MOHANTY (V.C)

The Applicant's father, who was a Mazdoor with MES under the Garrison Engineer of Tezpur, died on 20.08.1998. After the death of his father the Applicant applied for the post of Mazdoor (or any other post) on 09.11.2003, on compassionate ground in MES Organisation, after a lapse of more than 5 years. The case of the Applicant was forwarded, ultimately, to the Engineer-in-Chief Branch of Army Headquarters at New Delhi. The Respondents after examining the matter, rejected the case on 19.02.2007. While doing so, the Respondents authorities observed that the family of the deceased received Rs. 63,958/- as terminal benefit, that they are in receipt of monthly family pension @ Rs.2960/- plus dearness relief and that the family also owns 5 bighas of land with income of Rs.24,000/- per annum. It was disclosed in the rejection order that due to very few vacancies available for providing compassionate appointment, the same were given to more deserving cases and, as such, the case of the Applicant could not be recommended for providing appointment on compassionate ground. Aggrieved by this decision (order under Annexure-4 dated 19.02.2007 passed by the Respondent No.5) the Applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985.

2. The Respondents have filed written statement stating that the Applicant applied for the post of Mazdoor after a lapse of 5 years of the death of his father and, after examining the case in the light of the



DOPT instructions and after a balanced and objective assessment (of different claims for compassionate employment), the competent authority rejected the prayer of the Applicant for an employment on compassionate ground. Respondents have admitted that the family of the deceased received Rs.63,958/- as terminal benefit and Rs.2960/- (plus dearness relief) as monthly/family pension and that the family also owns 5 bighas of land with income of Rs.24,000/- per annum and also having a house (flat) from where some monthly income is coming. Respondents have also disclosed that there were some more deserving cases to be appointed against the of few vacancies available and that, therefore, the case of the Applicant could not be recommended (by the Board of Officers) for appointment on compassionate ground. It has also been stated by the Respondents that the case of Applicant was processed without any delay. It has also been reiterated that appointment on compassionate ground is not a matter of right and that whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis after the death of the bread earner and to relieve the family from financial destitution and to help it to get over the emergency and that because of more deserving cases (Than that of the Applicant) against few vacancies, after balancing the objective assessment the case of the Applicant with that of other cases (for compassionate appointment) the case of the Applicant was justifiably rejected.

3. We have heard Mr S.C.Biswas, learned counsel appearing for the Applicant, and Mrs M. Das, learned Addl. Standing counsel



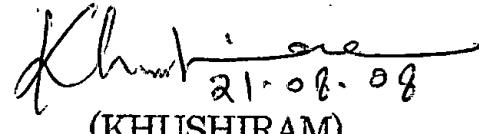
appearing for the Respondents and perused the materials placed on record. The learned counsel for the Applicant reiterates the grounds of the economic condition of the Applicant's family. He however, admitted that two of the daughters of the deceased having got married there are no unmarried daughters left to be taken care of by the Applicant. The learned Addl. Standing counsel in her argument stated that the case of the Applicant received due consideration on three occasions and for 4th consideration he has approached the Tribunal with the present Original Application. She placed on record the relevant documents (relating to the consideration of the case of the Applicant) for our perusal. From those records, it is apparent that case of the Applicant was duly considered by the Respondents. The Board of Officers, while considering the matter in March 2004 and, thereafter, by June 2004, marked the case of the Applicant. The matter also received consideration in March 2006 again. The learned counsel for the Respondents stated that since the claim of the Applicant was submitted after a lapse of 5 years, it is apparent that the Applicant was not in dire need of appointment on compassionate ground and that when they could live for 5 years without any employment assistance, there is no reason to believe that there is an urgent need of employment.

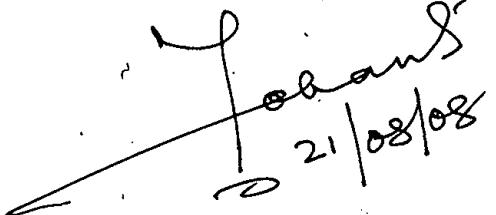
4. Admittedly application for compassionate appointment was filed after a lapse of 5 years of the death of the employee; who had only 4 years of the service left, at the time of his death, for his retirement in the normal course. From the records produced by the Respondents, it is apparent that the case of the Applicant have received considerations,



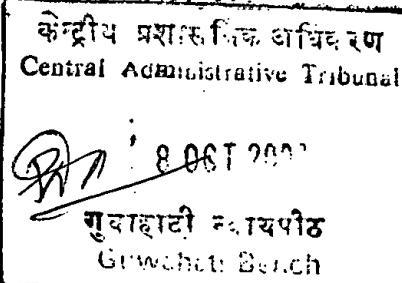
on three occasions, as required by rules and on all 3 occasions, more meritorious cases (than the applicant) were found. Since the case of the Applicant has already been considered by the Respondents and in view of the fact that there are only 5% vacancies to be considered for providing compassionate appointment, the Applicant could not be provided with an appointment.

5. The economic condition of the family is not as bad as has been made out by the Applicant. On scrutiny of the records and the reply filed by the Respondents, we are of the view that Applicant's case has already been considered by the Respondents, as per rules, on 3 occasions and therefore, there is no need to issue any further direction for re-consideration of the matter by Respondents. The Tribunal does not find merit to issue any directions in this regard. Accordingly, this Application stands disposed of.


21-08-08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER


21/08/08
(MANORANJAN MOHANTY)
VICE CHAIRMAN

//pg//



DISTRICT: SONITPUR

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

[An application U/s. 19 of the Central Administrative Tribunal Act, 1985]

ORIGINAL APPLICATION NO. 269 /2007

SRI. PARAG JYOTI MUDOI.

----- **APPLICANT.**

-VERSUS-

THE UNION OF INDIA AND OTHERS.

----- **RESPONDENTS.**

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5) ANNEXURE - 3 - - - - -	18-30
6) ANNEXURE - 4 - - - - -	31-32
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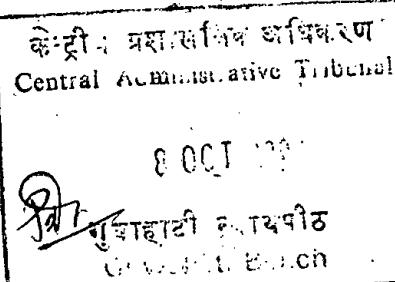
FILED ON **SEPTEMBER' 2007**

FOR OFFICE USE:

FILED BY:

SIGNATURE

ADVOCATE



DISTRICT: SONITPUR

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

[An application U/s. 19 of the Central Administrative Tribunal Act, 1985]

ORIGINAL APPLICATION NO 269/2007

SRI. PARAG JYOTI MUDOI.

---- APPLICANT.

-VERSUS-

THE UNION OF INDIA AND OTHERS.

---- RESPONDENTS.

SYNOPSIS OF THE CASE -

The brief fact of the case is that, the petitioner's father Late. Thaneswar Mudoi was working under the Garrison Engineer, Tezpur branch i.e. Respondent No. 6 as a Majdoor and he was expired on 20.08.1998 leaving behind his wife and two sons and two daughters. After the death of his father, they have been living in half fed condition because his father was the only earning member in the family. Despite financial hardship he however managed to continue his studies and passed B.A. examination in the year 2002 from T.H.B. College under Gauhati University. The Government of India, the Department of DOP & T have envisaged the scheme for appointment on compassionate ground to be followed by all the Ministry/Department of the Government of India. The scheme provides for such appointment to a dependent family members including son of a Government employee dying in harness to relieve the family of the deceased Government Employee from financial destitution, and to help it get over the emergency with exemptions of recruitment process etc. Paragraph - 4 of the Memorandum, it is stated that the number of vacancies for compassionate quota should be limited to 5% of the total vacancies in Group - C and Group - D to be filled by direct recruitment only. Under such compelling financial hardship the petitioner is indigent and deserves immediate assistance for relief from financial hardship by the respondent authorities. Therefore, the petitioner who fulfills all the criteria regarding compassionate appointment and having more than requisite qualification made series of representation

8 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

from 9.11.2003 to 26.05.2007 for consideration of his case for appointment on compassionate ground before the Respondent authorities. The respondent authority made an observation that, in view of Para 4 of the impugned Order the applicant is not entitled to be considered for appointment on compassionate ground and the scheme per se do not extends such relief to the applicant and in view of the above the respondents have rejected the claims of the applicant hence this application before this Tribunal for interference and to pass necessary directions and orders directing the respondents to consider appointment of the applicant as per the scheme.

FILED BY:


ADVOCATE.

केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

8 OCT 2007

Par
गुवाहाटी न्यायपीठ
Guwahati Bench

DISTRICT: SONITPUR

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

[An application U/s. 19 of the Central Administrative Tribunal Act, 1985]

ORIGINAL APPLICATION NO. 269 /2007

SRI. PARAG JYOTI MUDOI.

----- APPLICANT.

-VERSUS-

THE UNION OF INDIA AND OTHERS.

----- RESPONDENTS.

LIST OF DATES -

- 1) **20.08.1998** The petitioner's father Late. Thaneswar Mudoi was working under the Garrison Engineer, Tezpur branch i.e. Respondent No. 6 as a Majdoor and he was expired on 20.08.1998 leaving behind his wife and two sons and two daughters.
- 2) A copy of the death certificate.
[ANNEXURE No. 1].
- 3) The copy of the Scheme for appointment on compassionate ground.
[ANNEXURE No. 2].
- 4) The copies of representations made by the petitioner.
[ANNEXURE No. 3 (IN SERIES)].
- 5) **19.02.2007** The copy of the impugned Order stating that the applicant is not entitled to

8 OCT 2007

गुवाहाटी न्यायालय
Guwahati Bench

be considered for appointment on
compassionate ground and the scheme.
[ANNEXURE No. 4].

6) 09.09.2006

Prior to the issuance of the impugned Order Respondent authority informed the applicant that his case has been considered in the Board for Quarter ending March 2004, June 2004 and December 2004. It has also been informed that due to low in merit as well as non availability of vacancies his case could not be considered for appointment. However, it has also been informed that his case is being carried forward again in the board for quarter ending March 2006.

[ANNEXURE No. 5].

FILED BY:


ADVOCATE.

8 OCT 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

Parag Jyoti Mudoi

Filed by the petitioner
through his Advocate
Harisata Chander

DISTRICT: SONITPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

[An application U/s. 19 of the Central Administrative Tribunal Act, 1985]

ORIGINAL APPLICATION NO. 269 /2007

I) PARTICULARS OF: SRI. PARAG JYOTI MUDOI,
THE APPLICANT. S/o. Late. Thaneswar Mudoi,
R/o. Village: Puranitelig,
P.O. Nagsenkar, Pin Code. 784183.
District: Sonitpur, Assam.

---- APPLICANT.

II) PARTICULARS OF : 1) THE UNION OF INDIA,
THE RESPONDENTS through -
The Ministry of Defence,
Raksha Bhawan, New Delhi.
2) THE ENGINEER IN CHIEF'S
BRANCH, Army Head Quarter,
D.H.R., New Delhi.
3) THE HEAD QUARTER,
Eastern Command,
Engineer's Branch.
Fort William. Kolkata - 21.
4) COMMANDER,
WORKS ENGINEER (C.W.E.)
Tezpur, P.O. Dekargaon,
District: Sonitpur, Assam.
District: Karimganj, Assam.

8 OCT 2007

गुवाहाटी न्यायालय
Guwahati Bench

- 2 -

5) H.Q. CHIEF ENGINEER,
Shillong Zone,
S.E. Falls, Shillong: 793011.

6) GARRISON ENGINEER,
Tezpur, P.O. Dekargaon,
District: Sonitpur, Assam.

----- RESPONDENTS.

III) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE -

This application has not been made against the impugned Order issued vide No. 70601/25/50/132/EIC(i) Dated: 19.02.2007 to which the applicant pray before this Hon'ble Tribunal for a direction to consider for his appointment on compassionate ground on the basis of die in harness scheme. The reasons made in the said Orders are not in confirmative with the scheme and as such interference of this Hon'ble Tribunal is prayed for.

IV) JURISDICTION OF THE TRIBUNAL -

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

V) LIMITATION -

The applicant further declares that the present application is within the period of

Contd...

8 OCT 2001

गुवाहाटी न्यायालय
Guwahati Bench

- 3 -

limitation as prescribed in Under Section 21 of the Administrative Tribunals Act, 1985.

VI) FACTS OF THE CASE -

- 1) That the applicant is a citizen of India and a permanent resident of village Puranitelia in the District of Sonitpur, Assam and as such he is entitled to all the rights and protections and privileges as guaranteed under the Constitution of India and other laws of the country.
- 2) That the applicant states that, his father Late. Thaneswar Mudoi was working under the Garrison Engineer, Tezpur branch i.e. Respondent No. 6 as a Majdoor and he was expired on 20.08.1998 leaving behind his wife and two sons and two daughters.

A copy of the death certificate is annexed here with and marked as ANNEXURE - I.

- 3) That the applicant states that, after the death of his father, they have been living in half fed condition because his father was the only earning member in the family.
- 4) That the applicant states that, despite financial hardship he however managed to continue

Contd...

Parag Jyoti Mudoi

8 OCT 2002

- 4 -

गृहान्वाटी न्यायालय
Gauhati Bench

his studies and passed B.A. examination in the year 2002 from T.H.B. College under Gauhati University.

5) That the applicant states that, the Government of India, the Department of DOP & T have envisaged the scheme for appointment on compassionate ground to be followed by all the Ministry/Department of the Government of India. The scheme provides for such appointment to a dependent family members including son of a Government employee dying in harness to relieve the family of the deceased Government Employee from financial destitution, and to help it get over the emergency with exemptions of recruitment process etc. Paragraph - 4 of the Memorandum, it is stated that the number of vacancies for compassionate quota should be limited to 5% of the total vacancies in Group - C and Group - D to be filled by direct recruitment only.

The copy of the Scheme is annexed herewith and marked as ANNEXURE - 2.

6) That the applicant states that, under such compelling financial hardship the petitioner is indigent and deserves immediate assistance for relief from financial hardship by the respondent authorities. Therefore, the petitioner who fulfills all the criteria regarding compassionate appointment

Contd..

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Parag Syoti Nudoi

8 OCT 2007

गुवाहाटी न. रायपोर्ट
Guwahati Bench

- 5 -

and having more than requisite qualification made series of representation from 9.11.2003 to 26.05.2007 for consideration of his case for appointment on compassionate ground before the Respondent authorities.

The copies of representations made by the petitioner is annexed here with and marked as ANNEXURE No. 3.
[IN SERIES].

7) That the applicant states that, after much persuasion the Respondent No. 5 issued a letter which impugned in this application vide No. 70601/25/50/132/EIC(1) dated: 19.02.2007 by which the applicant has been informed that in reference to his application dated: 9.11.2003 for consideration of appointment on compassionate ground as applicable to a near kin of the deceased to die in harness. By the said impugned order at Para 4 it has been informed as follows -

"(a) The death/MBO/Missing of the Government Servant occurred on 20.04.1998 His wife 1 Son 02(S) and daughter(s) survive him. The deceased (MBO/Missing) Government servant's family received Rs. 63,958/- as terminal benefits. At present they are in receipt of monthly pension of Rs. 2960/- plus Dearness relief of Rs. /-.

Contd...

Parag Jyoti Munder

8 OCT 2007

गृहाधारी न्यायपाल
Civil Bench

-6-

(b) The family owns 05 Bighas land (property/land) with income of Rs. 24,000/- p.a. house (flat) worth Rs. 1/- per month".

The respondent authority made an observation that, in view of Para 4 of the impugned Order the applicant is not entitled to be considered for appointment on compassionate ground and the scheme per se do not extends such relief to the applicant and in view of the above the respondents have rejected the claims of the applicant hence this application before this Tribunal for interference and passed necessary directions and orders directing the respondents to consider appointment of the applicant as per the scheme.

The copy of the impugned Order

Dated: 19.02.2007 is annexed here

with and marked as ANNEXURE No. 4.

8) That the applicant states that, prior to the issuance of the impugned Order dated: 19.02.2007 the Respondent authority by letter No. 70601/25/162/EIC(1) Dated: 09.09.2006 informed the applicant that his case has been considered in the Board for Quarter ending March 2004, June 2004 and December 2004. It has also been informed that due to low in merit as well as non availability of

Confd...

8 OCT 2007

- 7 -

गुरुहाटी नगरपालिका
Guruhati Banch

vacancies his case could not be considered for appointment. However, it has also been informed that his case is being carried forward again in the board for quarter ending March 2006.

A copy of the letter No. 70601/ 25/162/EIC(1) Dated: 09.09.2006 is annexed herewith and marked as ANNEXURE No. 5.

9) That the applicant states that, the letter dated: 09.09.2006 and the impugned Order Dated: 19.02.2007 contradicts the statements made therein and by the letter Dated: 09.09.2006 the Respondent authority informed the applicant that he has been less merit for appointment on compassionate ground and also it also been mentioned that due to non-availability of post his case could not be considered for compassionate appointment. On the other hand, by the impugned Order it has been informed that the applicant does not deserves employment assistance on compassionate ground following receipt of Rs. 63,958/- as terminal benefit, Rs. 2960/- pension plus dearness relief and landed property having 5 Bighas of land.

10) That the applicant states that, the justification put forward by the authority concerned is absolutely unjust. The terminal benefit, which was received by the family, was the property of

Confd.

Parag Jyoti Mukherjee

8 OCT 2007

गुरुवारी वार्षिकी
Court Bench

- 8 -

24

the deceased father of the applicant and the family pension which has been granted as per admissibility and pension rules. As such these aspects cannot in any view of the matter came into the way of appointment on compassionate ground.

ii) That the applicant states that, he has filed several representations one after another till passing of the impugned order. The Respondent authority in each and every occasion reasons best known to them kept on assuring the applicant of being considered for such appointment. If at all that the applicant do not fall under the zone of consideration for such appointment it was the duty of the respondent authority to make him know the position much earlier but inspite of that the authorities assured him of consideration of his case keeping his hope alive for such a long period of time and the impugned order dated: 19.02.2007 is itself passed to make the applicant frustrate him or such the impugned Order dated: 19.02.2007 needs to be interfered by setting aside and quashing the same.

VII)

G R O U N D S

A) For that, the impugned order has been passed without any reasonableness and bare reading of the said impugned Order does go to show, non application of mind and dehors the scheme.

Confd...

Parag Syoff Muder

8 OCT 2001

गुवाहाटी अधिकारी
Guwahati Bench

-9-

B) For that, it is apparently incorrect that the applicant does not have the requisite qualification or merit to be appointed as Mazdoor, Chowkidar and L.D.A. The applicant has passed Higher Secondary and as such possesses requisite qualification for consideration of his appointment as L.D.A. as such holding him of having low merit is absolutely unjust and unfair.

C) For that, the impugned Order cannot sustain in the eye of law on the ground that the family own five Bigha of landed property and have received some terminal benefit.

D) For that, the terminal benefit and the family pension has been granted as per the Central Civil Services Pension Rules, 1972, which envisages grant of terminal benefits and family pension on the death of the employee which is a property within the meaning of Article 300-A of the Constitution of India, as such these aspects cannot come on the way in granting of compassionate appointment to the nearest kin of the deceased, as such the impugned Order suffers from illegality and is liable to be set aside and quashed.

E) For that, the impugned Order has been passed just to accommodate some of the person of their own choice.

Confd...

Parag Jyoti Munde

8 OCT 2007

गुवाहाटी न्यूयार्क
Guwahati Bench

- 10 -

F) For that, whatsoever is considered for appointment on compassionate ground is a near kin of the deceased person who died in harness to whom terminal benefits and family pension would have been granted vis-à-vis the claim seems to be on the same footing, therefore coming on the conclusion that the applicant does not deserve employment assistance on compassionate ground are mere thoughts of the authority concerned and are far from the ground realities. Accordingly, the impugned orders are liable to be struck down.

G) For that, the Respondent authorities it at all considered him not to be deserving for appointment on compassionate ground ought to have informed him on the day one and not after the lapse of 5 (five) years and that too by giving false assurance of being considered for appointment on compassionate ground, as such, on this count alone the impugned Order needs to be interfered for setting aside and quashing.

H) For that, in any view of the matter the impugned order suffers from illegality and the same is perverse and liable to be struck down.

I) For that, the impugned Order does not commensurate with the scheme and is against the

Contd...

28
Pakay Jyoti Mukherjee

8 OCT 2001

गुवाहाटी न्यायपीठ

Gauhati Bench

policy decision of the Government which cannot
overwrite such an impugned Order and thus needs
interference of this Hon'ble Court.

J) For that the impugned Order is violative of Article 14, 16, and 21 of the Constitution of India and accordingly the impugned Order is liable to be set aside and quashed.

VIII) DETAILS OF THE REMEDIES EXHAUSTED -

The applicant filed appeal before the departmental authorities against the impugned order which were not considered.

IX) MATTER NOT PREVIOUSLY FILED OR NOT PENDING IN ANY OTHER COURT -

The applicant states that there is no appeal or representation is pending in any forum.

X) RELIEF SOUGHT FOR IN THIS APPLICATION -

Under the facts and circumstances of the case, the applicants pray that Your Lordships would be pleased to issue notice to the Respondents to show cause as to why the relief sought for by the applicants shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties, Your Lordships may be pleased to grant the following relief -

Contd...

Parley Jyoti Moudi

8 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

- 12 -

28
Parag Jyoti Meador

- a) To set aside and quash the Impugned Order Dated: 19.02.2007 (Annexure No. 4) passed by the Respondent No. 5.
- b) To pass such further appropriate Order/Orders or direction as this Hon'ble Tribunal deem fit and proper.
- c) Cost of the proceeding.

XI) INTERIM ORDER PRAYED FOR -

Pending disposal of the Rule, Your Lordships may be pleased to direct the Respondents to keep one post either in Grade - III or Grade - IV vacant in respect of the applicant and/or pass such interim Order/Orders or direction as Your Lordships may be deem fit and proper.

XII) PARTICULARS OF THE POSTAL ORDER -

Postal Order - 32G 043205

Date - 08-10-2007

Issuing Office - Guwahati G.P.O.

Payable at - Guwahati G.P.O.

XIII) LIST OF ENCLOSURES -

An index showing particulars of the document enclosed.

Contd...

8 OCT 2007

गुवाहाटी अधिकारी
Guwahati Bench

VERIFICATION

I, Sri. Parag Jyoti Mudoi, aged about 26 years,
S/o. Late. Thaneswar Mudoi, Resident of: Puranitelia,
P.O. Nagsankar, in the District: Sonitpur, Assam, do
hereby verify that I am the applicant in the accompanying
application. I am acquainted with the facts and
circumstances of the case. I hereby verify that the
statements made in Paragraphs 1 to 11 are true to my
knowledge and that I have not suppressed any material
facts.

And, I set my hand on this verification
today the 8th ^{October} September 2007 at Guwahati.

Parag Jyoti Mudoi
APPLICANT.

Contd...

OP&T INSTRUCTIONS AND SUPREME COURT RULINGS REGARDING
THE SCHEME OF COMPASSIONATE APPOINTMENT

DOP&T have envisaged the scheme of compassionate appointment as follows :

- (a) The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government Servant dying in penury or who is retired on medical grounds, thereby leaving the 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.
- (b) Providing employment assistance under the scheme of compassionate appointment does not mean employment generation as per existing instructions, guidelines and are not in favour of giving guaranteed compassionate appointment to dependents as a matter of routine.
- (c) While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare schemes) and all other relevant factors such as the presence of an earning member, size of the family, ages of the children and the essential needs of the family etc.
- (d) In deserving cases even where there is already an earning member in the family, a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.
- (e) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

Contd - 2

Authorised
 Date: 09/01/2015
 Adm.

(f) Ministry/Department can consider requests for compassionate appointment even where the death or retirement on medical grounds Government servant took place long back say five years or so. Considering such belated requests it should, however, be kept in view the concept of compassionate appointment is largely related to the need immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence.

(g) Whether a request for compassionate appointment is belated or not should be decided with reference to the date of death or retirement on medical grounds of a Government servant, and not the age of the applicant at the time of consideration.

(h) The number of vacancies for compassionate quota should be limited to 5% of the total vacancies in Group 'C' and Group 'D' to be filled by direct recruitment only. The Committee prescribed in paragraph 12 of OM dated October 9, 1998 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 limit recommendation to appointment on compassionate grounds only in a deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too within the ceiling of 5% of vacancies fall under DR quota in any Group 'C' or 'D' post prescribed in this regard.

(i) There is no reservation for compassionate appointment nor it can be demanded as a matter of right and it is subject to availability of vacancy meant for this purpose. Hence, if there is any direction of CAT/Court for consideration for such appointment on compassionate grounds, it may be considered on merit and even if it is found to be deserving one it may be agreed to only if a vacancy meant for such appointment will be available within a year in the concerned administrative Ministry/Department/Office as provided in our OM dated 22-1-2001 and not otherwise.

(a) The Supreme Court in its judgement dated April 8, 1993 in the case of Auditor General of India and others vs. G. Avanta Rajeswara Rao [(1994) 1 SCC 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.

(b) The Supreme Court's judgement dated May 4, 1994 in the case of Umesh Kumar Nagpal vs. State of Haryana and others [J.T. 1994(3) S.C. 525] has laid down the following important principles in this regard:

- (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
- (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
- (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
- (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.
- (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
- (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
- (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.

(c) The Supreme Court has held in its judgement dated February 28, 1995 in the case of the Life Insurance Corporation of India vs. Mrs. Asha Ramchandra Ambedkar and others [J.T. 1994(2) S.C. 183] that the High Courts and Administrative Tribunals can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.

(d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation vs. Dipesh Verma [(1) 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeropress Limited vs. Govt. of Radhika Thirumalai [(1) 1996 (2) S.C. 97] on October 7, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.

(e) The Supreme Court has held in its judgement in the case of State of Haryana and others vs. Radhika Thirumalai and others [J.T. 1996 (6) S.C. 616] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of central government employees including those not covered in the App. 1 series, then such scheme cannot be justified on constitutional grounds.

H.Q. Chief Engineer,
Shillong zone,
S.C. Falls, Shillong - 793011.

Dated. 14/12/04

Sub. - Reminder application for the appointment of deceased M.E.S.
Person on Compassionate ground.

Sir,

Reference your letter No 70601/25/SO/49/EIC (l) dated 25th Nov 2004 I am very pleased that you have considered my Case for appointment of deceased M.E.S. Person on compassionate ground board, and beg to lay down the few lines for favor of your kind consideration and sympathetic action please.

That sir, you have not considered my case for appointment in the board of March'04 and June 04 due to my low merit. Sir in this matter I have informed you that I have just completed the Bachelor degree (Arts) in political science with second class and now doing a computer course under this circumstances I have enclosed the degree certificate and mark sheet for pertaining with my file.

I there for, humble request you to please consider my case in the next board for the appointment. For the act of your kindness, I will ever remain grateful to you

Thanking you in anticipation.

Yours faithfully

Sri. Parag Jyoti Mudo
(SRI PARAG JYOTI MUDOI)
S/O - Late Thaneswar Mudoi
P.O. - Nagsankar
Vill - Puranitelia
Dist. - Sonitpur (Assam)
Pin - 784183.

Copy to -

- (1) Engineer in chief S Branch.
Army H. Q.
D.H.R. New Delhi.
- (2) H.Q. Eastern Command.
Engineers Branch
Fort William, Kolkata - 700021.
- (3) Commander works Engineer.
Tezpur
P.O. - Dekargaon.
Dist - Sonitpur (Assam)
- (4) Garrison Engineer
Tezpur
P.O. - Dekargaon
Dist - Sonitpur (Assam).

Two Copt.
Certified to
A.D. JAW.

To

H.Q. Chief Engineer
Shillong Zone
Spread Eagle falls
Shillong - 793011.

Date - 2nd Feb 2005

Subject : Forwarding of Provisional Certificate of Computer Course for appointment on Compassionate Ground .

Sir ,

1. Kindly refer your office letter no 70601 / 25/S0/49/EIC(1) dated 25th Nov'04 and my letter no nil dated 14 th Dec. 2004 .
2. I am enclosing my Provisional Certificate of Computer Course which will be terminating in Feb. 2005 . This is for your reference and requesting you to consider my Case on priority being a son of deceased MES person.
3. You are also requested to kindly intimate progress and present position of The Case.

Thanking you in anticipation.

Yours Faithfully

Sri. Parag Jyoti Mudoi

(SRI PARAG JYOTI MUDOI.)

S/o Late Ex. Sep. Thaneswar Mudoi .

Vill - Puranitelia

P.O. - Nagsankar , Sonitpur (Assam)

Enclosed

P

30.12.04

Asst. Inspector (I.P.)

Nadar

Tezpur

Enclose:

1. Provisional Certificate of Computer Course..

To

**H.Q. Chief Engineer,
Shilong zone ,
S.E. Falls, Shilong-793011**

Date - **28/07/05**

**SUB :-REMINDER APPLICATION FOR THE APPOINTMENT OF DECEASED M.E.S. PERSON ON
COMPASSIONATE GROUND.**

Sir ,

Reference your latter No 79601/25/SO/49/EIC(1) dated 25th Nov2004. I am very pleased that you have considered my case for appointment of deceased M.E.S. person on Compassionate ground board. And beg to lay down the few lines for favour of your kind consideration and sympathetic action please.

That sir, you have not considered my case for appointment in the board of March 04 and June 04 due to low in merit and also non availability of vacancy and my case have carried forwarded to the next board.

Sir, in this matter I have already submitted my Graduation Certificate (Arts, honours in Political science with 2nd class) in the date of 14/12/04 and a computer certificate in 2nd Feb 2005 for pertaining with my file.

Sir, it is going to be very tuff to live with a small amount of the family pension in these hard days. Therefore my earnest requests you to please give me any job at any where under you to survive my family.

For the act of your kindness I will remain ever grateful to you. Thinking you in anticipation.

Yours faithfully

Sri. Parag Jyoti Mudoj

(SRI PARAG JYOTI MUDOJ).

S/O Thaneswar Mudoj

Vill:- Puranitelia

P.O.: Nagsankar

Dist:-Sonipur(Assam)

Pin:-784183

Copy to :-

1 Engineer in Chief's Branch

Army H.Q.

D.H.R. New Delhi

2 H.Q. Eastern Command

Engineers branch

Fort William, kolkata-21

3 Commander works Engineer, Tezpur

P.O.: Dekargaon

Dist:-Sonipur(Assam)

4 Garrison Engineer

Tezpur, P.O.: Dekargon

Dist:-Sonitpur(Assam)

21
3b
H.Q. Chief Engineer
Shillong Zone
S.E. Falls, Shillong-793011

Date- 28/09/05

SUB- REMINDER APPLICATION FOR THE APPOINTMENT OF DECEASED M.E.S.
PERSON ON COMPASSIONATE GROUND.

Sir,

Most respectfully I have the honour to informed you that my case has been forwarded to your next compassionate appointment board. In this matter I beg to lay down the few lines for favour of your kind consideration and sympathetic action please.

That sir, my mother has received a little amount of family pension and this little amount of family pension can not be maintain to run our family. For this matter I have applied for appointment of dependent of deceased M.E.S. person on compassionate ground. But till I have not found the opportunity.

Sir, I regre fully mention that a serious problem arise in our family. My widow mother has failed her both kidneys and Doctor has declared that the both kidneys change within two years otherwiswe we are going to be loss our mother. In support of little amount of family pension it is beyond the imagination to buy a kidney for my mother.

Therefore I request you kindly appoint me any post on compassionate ground as early as possible that I can help my mother for treatment.

For convincing you I have enclosed the medical report of my mother with this application.

For act of your kindness I will remain ever grateful to you.

Thanking you

Yours faithfully

Sri. Parag Jyoti Muder
(SRI PARAG JYOTI MUDER)
S/O-Late Thaneswar Muder
vill-Puranitelia
P.O.-Nagsankar
Dist- Sonitpur(Assam)
PIN-784183

Copy to

1. Engineer in Chief's Branch.
Army H.Q.
D.H.R. New Delhi
2. H.Q. Eastern Command
Engineers Branch.
Fort William, Kolkotta-21
3. Commander Works Engineer, Tezpur
P.O. Dekargaon
Dist. Sonitpur(Assam)
4. Garrison Engineer, Tezpur
P.O. Dekargaon
Dist. Sonitpur(Assam)

To

H.Q. CHIEF ENGINEER
 SPREAD EAGLE FALLS
 SHILLONG ZONE
 SHILLONG-793011

Dated- 15 Feb'06

**REMINDER APPLICATION FOR THE APPOINTMENT OF
 DECEASED MES PERSON ON COMPASSIONATE GROUND**

Sir,

1. Kindly refer to your application No-1060/comp/209/EJC(I) dated 24th October 05 from CWE Tezpur and your letter NO-70601/25/SO/110/EJC(I) dated 5th Nov'05 to me.
2. I have already mentioned in my last application about my mother's illness. She has failed her both kidneys and for that it is going to be more difficult to live with this little amount of family pension. Therefore I have requested to consider my case as early as possible for appointment.
3. I have also informed about this matter to the president and vice president of AWWA H.Q. 4 CORPS in the widows meeting held on 30th Jan'06. In this connection I have submitted all my MES documents to the CO, 4 CORPS OP SIG Reg. for forwarding my case.
4. For convincing you I have enclosed the doctor's declaration for "Kidney Transfer" certificate with this application.
5. Therefore my earnest request you to consider my case for appointment in the next board that I can help my mother for treatment.

For the act of your kindness I will remain ever grateful to you.

Thanking you

Yours faithfully

Sri Parag Jyoti Mudo
 (SRI PARAG JYOTI MUDOI)
 S/O- Late Thaneswar Mudo
 Vill- Puranitelia
 P.O- Nagsankar
 Dist.- Sonitpur
 Assam-784183

Copy to<

1. Engineer In Chief's Branch
 Army H.Q.
 DHR, New Delhi.
2. H.Q. Eastern Command.
 Engineers Branch,
 Fort William, Kokota-21
3. Commander Work's Engineer, Tezpur.
 P.O.-Dekargaon, Sonitpur(As)
4. Garrison Engineer, Tezpur.
 P.O.-Dekargaon, Sonitpur(As)
5. The President, AWWA
 H.Q. 4 CORPS
 C/O-99 APO

23

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H.Q. CHIEF ENGINEER
S.E. Falls
Shillong Zone
Shillong-793011

Dated the 8th May 06

SUB:-REMIDER APPLICATION FOR THE APPONTMENT OF
DECEASED M.E.S. PERSON ON COMPASSIONATE GROUND.

Sir,

Kindly refer to you letter No.-1060/COMP/209/EIC(I) dated 24th Oct. 05 from CWE Tezpur, your letter No 70601/25/SO/110/EIC(I) Dated 5th Nov 05 to me and my application dated 15th Feb. 06 to you.

Sir, the present position of our family is very complicated to run out. So I have requested to consider my case as early as possible in previous reminder. But I have not got any information letter from your side.

Sir, I am eagerly waiting for your kind consideration regarding compassionate appointment.

Therefore my earnest requested to you please consider my case as soon as possible and intimate the present position of my case.

Your sympathetic consideration will high be appreciated.

Thinking you .

Your's faithfully

Sri. Parag Jyoti Mudo

(SRI PARAG JYOTI MUDO)
S/O-Late Thaneswar Mudoi
P.O.:Nasankar
Vill-Purnitelia
Dist.-Sonitpur(Assam)
Pin-784183

Copy to

- 1. Engineer In Chief's Branch.
Army H.Q.
D.H.R. New Delhi.
- 2. H.Q.Eastern Command.
Engineers Branch
Fort William, Kolkota-700021.
- 3. Commander Works Engineer.
Tezpur
P.O.:Dekargaon.
Dist.:Sonitpur(Assam)
- 4. Garrison Engineer
Tezpur
P.O.-Dekargaon
Dist.:Sonitpur(Assam).

To

H.Q. Chief Engineer

Shillong Zone

SE Falls, Shillong-793011

Dated *the 20th May 06*

**Sub:- REMINDER APPLICATION FOR THE POST OF DEPENDENT OF DECEASED
M.E.S. PERSON ON COMPASSIONATE GROUND**

Sir,

Kindly refer my application dated 8th May 06 to you.

Sir, I have already sent two reminder applications after your last letter no. 70601/25/SO/110/EIC(I) dated 5th Nov 05. But I have not found any consideration since this period.

Sir, you have already consider my case in the board of Mar 04 and June 04 but it is not fully filled due to non availability of vacancy.

Therefore my earnest request you that during this two years incurred vacancies in your department you please appoint me. I am eagerly waiting to do any Job under you.

Hope for your kind consideration.

Thinking you.

Your's faithfully

Sri. Parag Jyoti Mudoi

SRI PARAG JYOTI MUDAI

s/o-Late Thaneswar Mudoi

P.O.-Nagsankar

Vill-Puranitelia

Dist-Sonitpur(Assam)

Pin-784183

Copy to-

- (1) *Engineer in chief S Branch
Army H.Q.
D.H.R. New Delhi*
- (2) *H.Q. Eastern Command
Engineers Branch
Fort William, Kolkata-700021
Commander works Engineer.
Tezpur
P.O.-Dekargaon
Dist-Sonitpur(Assam)*
- (3) *Garrison Engineer
Tezpur
P.O.-Dekargaon
Dist.-Sonitpur*
- (4) *Garrison Engineer
Tezpur
P.O.-Dekargaon
Dist.-Sonitpur*

Commander Works Engineers
Tezpur
Post : Dekargaon
Dist : Sonitpur (Assam)
Pin - 784 501

1187/R/ ¹⁰² /E1C (2)

29 Aug 2006

Shri Parag Jyoti Mudoi

RECRUITMENT FOR MAZDOOR : TEST

1. Reference your application applied for Recruitment.
2. Your application has been scrutinized and considered for Test.
3. The date of Test for the post of MAZDOOR has been fixed on 13 & 14 Sep 2006. You are requested to report at **Meghna stadium near CWE Tezpur, Solmara (Army Complex)** on **13 Sep 2006 at 0800 hrs** for Interview/Test accordingly.
4. You will bring all necessary documents/certificates in original as well as Employment Exchange Registration Card for verification during Test.
5. Please note that you will not be entitled any TA/DA for the journey period/stay. You will also make your own arrangements for Accommodation/Messing.
6. Your Roll No. is 101.


(R K Roy)
Adm Offr-II
For CWE Tezpur

- 26 -
H.Q. Chief Engineer
Shillong Zone
SE Falls, Shillong-793011

Sub: REMINDER APPLICATION FOR THE APPOINTMENT

~~FOR DECEASED MES PERSON COMPASSIONATE GROUND~~

Sir,

Date - 4/9/06

Kindly refer to your letter No.1060/COMP/209/EIC(I) dated 24th Oct. 05 from CWE Tezpur, Your letter No. 70601/25/SO/110/EIC(I) dated 5th Nov. 05 to me and my applications dated 15th Feb. and 20th July to you:

Sir, you have considered my case for appointment in the Board of Mar'04 and June '04. But due to low in merit and well as non availability of vacancy my case has not been considered for appointment.

Sir, you have advertised in the ~~Choudhury in the Telegraph News~~ that some post of Choukidar and Mazdoor are lying vacant under you. Therefore my earnest request to you to please appoint me any of ~~these~~ category. I am willing to do any job.

Hope for your kind consideration and sympathetic action.

Thinking you.

Your's faithfully



(SRI PARAG JYOTI MUDOI)

S/O: Late Mazdoor AGE(11)

Thaneswar Mudoi

Vill: Purnitelia

P.O.: Nagsankar

Dist: Sonitpur

Assam: 784183

Copy To

(1) Engineer in chiefs Branch

Army H.Q.

DHR New Delhi

(2) H.Q. Eastern Command

Engineers Branch, Fortwilliam

Kolkata-700021

(3) Commanderworks Engineer

Tezpur, P.O.-Dekargaon

Sonitpur(Assam)

(4) Garrison Engineer

Tezpur(Do)

Sonitpur(Assam)

(4) Garrison Engineer

Tezpur(Do)

27
Engineer in chiefs Branch
Army H.Q.
DHR New Delhi

लोका चाही ४०८
लगाये गये छाकारे नं० का नूत्रण
Amount of Stamps affixed २२.००
एक रजिस्टरेड प्राइवेट मेडिया (Nagsankar)
Received a Registered R.P.L
पानेवाले का नाम To Engineer in C. Branch
Addressed to Dhr Branch
Army H.Q. DHR New Delhi
No. 3721
42

Sub: REMINDER APPLICATION FOR THE APPOINTMENT OF DEPENDENT OF DECEASED MES. PERSON ON COMPASSIONATE GROUND

Sir,

Kindly refer to your office letter No. 70601/25/162/EIC(I) dated 9th sep. I beg to lay down the few lines in favour of your kind consideration and sympathetic action please.

1. That sir, you have not consider my case for appointment in the board of QE Mar 04, June 04 and Dec 05 due to low in merit as well non availability of vacancy.

2. Sir, I have the honour to informed you that as merit side I have already submitted my degree certificate on 14th Dec 04 and computer certificate on 2nd Feb 05 to all your office for pertaining with my file.

3. In this matter of vacancies you have advertised in all news papers of July - Aug that some post of LCD/choukider, Mazdoor are lying vacant under your kind disposal H.Q. Shillong zone.

4. Regarding this I have already applied for the post of Mazdoor under CWE Tezpur, I have faced the physical test on 13th sep interview bearing Roll No. 101. For convincing you I have enclosed the interview call letter with this application.

5. That sir, you have intimate that my case ~~being~~ carried forward again in the Board for QE Mar 06. But the Mar 06 was already passed away. So my earnest request you to please intimate the present position of my case and also consider my case as realy as possible for appointment. For the act of your kindness, I will remain ever greatful to you

Thinking you in your anticipation.

Your's faithfully


Sri. Parag Jyoti Mudoi

(SRI PARAG JYOTI MUDOI)

S/O: Late Mazdoor AGE(II)

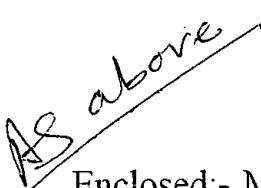
Thaneswar Mudoi

Vill: Purnitelia

P.O.: Nagsankar

Dist: Sonitpur

Assam: 784183


Enclosed:- Mazdoor interview call letter

Copy To:

(1) H.Q. Chief Engineer
Shillong Zone
SE Falls, Shillong-793011

(For necessary action)

(2) H.Q. Eastern Command
Engineers Branch, Fortwilliam
Kolkata-700021

(For necessary action)

(3) Commanderworks Engineer
Tezpur, P.O.-Dekargaon
Sonitpur(Assam)

(For write to above this matter & availability
of funds)

(4) Garrison Engineer
Tezpur(Do)

- 28 -

V3

H.Q. Chief Engineer
Shillong Zone
SE Falls, Shillong-793011

Date: 11/11/06

Sub: REMINDER APPLICATION FOR THE APPOINTMENT OF DEPENDENT OF DECEASED MES. PERSON ON COMPASSIONATE GROUND

Sir,

Kindly refer to your office letter No.70601/25/162/EIC(I) dated 9th sep.I beg to lay down the few lines in favour of your kind consideration and sympathetic action please .

1. That sir ,you have not consider my case for appointment in the board of QE Mar 04 , june 04 and Dec05 due to low in merit as well non availability of vacancy.

2 Sir, I have the honour to informed you that as merit side I have already submitted my degree certificate on 14th Dec04 and computer certificate on 2nd Feb 05 to all your office for partaining with my file .

3 In the matter of vacancies you have advertised in all news papers of july -Aug that some post of LDC, choukider, Mazdoor are lying vacant under your kind disposal H.Q.Shillong zone.

4 Regarding this I have already applied for the post of Mazdoor under CWE Tezpur, I have faced the physical test on 13th sep interview bearing Roll No. 101. ~~For convincing you I have enclosed the interview call letter with this application.~~

5. Specially you have advertised in the Assam Tribune News Paper on 2/8/06 Employment Notice No. 81001/RECT/CMD/2006/EICI/CF(AF) that some post of C.M.D/Driver are lying vacant .

6. Regarding this I would like to put up my driving licence for this post.

7. That sir, you have intimate that my case is being carried forward again in the Board for QE Mar06. But the Mar 06 was already passed away . So my earnest request you to please intimate the present position of my case and also consider my case as early as possible for appointment .

For the act of your kindness, I will remain ever greatful to you.

Thinking you in your anticipation.

Your's faithfully



(SRI PARAG JYOTI MUDOI)
S/O: Late Mazdoor AGE(II)

Thaneswar Mudoi

Vill:Purnitelia

P.O.:Nagsankar

Dist: Sonitpur

Assam:784183

Driving Licence

Enclosed:- ~~Mazdoor interview call letter~~

Copy To:::::::

(1) Engineer in chiefs Branch

Army H.Q.

DHR New Delhi

(2) H.Q. Eastern Command

Engineers Branch, Fortwilliam

Kolkota-700021

(3) Commanderworks Engineer

Tezpur, P.O.-Dekargaon

Sonitpur(Assam)

To

H.Q CHIEF ENGINEER
SHILLONG ZONE
SE FALLS, SHILLONG - 793011

- 30 -

NS
Dated: 26th May '07

SUB: REGARDING COMPASSIONATE APPOINTMENT

Sir,

Kindly refer to your office letter no-70601/25/SO/132/ EIC/ (I) dated 19th Feb to me and my application dated 25th March 07 to you.

Regarding this I have put up all my necessary particulars which points you have rejected my appointment.

That sir, I kindly request you due to death of my mother the pension already stopped in this point and also treatment purpose we have sold our land property which I have submitted to you on last reminder. But still I have not found any suitable information from you side.

Therefore I kindly request you to please re-justify my case and give an opportunity to live our family. I am eagerly waiting for your kind consideration in my case and information.

Thinking You.

Yours faithfully

Parag Jyoti Mudo
26/5/07

(PARAG JYOTI MUDOI)
S/O: LATE THANESWAR MUDOI
Vill: Puranitelia
P.O.: Nagsankar
Dist: Sonitpur (Assam)
Pin: 784183

COPY TO.....

- ✓ ENGINEER IN CHIEF'S BRANCH
ARMY HEAD QUARTER
D.H.R. NEW DELHI
- ✓ 2. H.Q.EASTREN COMMAND.
ENGINEERS BRANCH
FORT WILLIAM, KOLKOTA-21
- ✓ 3. COMMANDER WORKS ENGINEERS,
TEZPUR, P.O. DEKARGAON
DIST SONITPUR, ASSAM

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

70601/25/ SO/132 /EIC(I)

19 Feb 2007

16

Shri Parag Jyoti Mudoii
S/O (L) T Modui ,
Vill -Puranitelia
PO Nagsankar
Dist-Sonitpur
(Assam)

**EMPLOYMENT ASSISTANCE IN RESPECT OF SHRI
PARAG JYOTI MUDOI ON COMPASSIONATE GROUNDS**

Dear Sir,

1. Reference your application dated 9.11.03 regarding employment on compassionate grounds. The request (representation) for compassionate appointment was examined by the competent authority of this Headquarters as per the extant Government Rules and Policies and the Hon'ble Supreme Court rulings on the subject. The relevant DOP & T instructions and Hon'ble Supreme Court rulings on the subject are enclosed.

2. The Scheme of appointment on compassionate grounds has been envisaged with the whole object of granting compassionate appointment to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency. The scheme does not necessarily imply that dependent of each and every deceased/medically boarded out/missing Govt employee will be offered appointment on compassionate ground. It is pertinent to mention here that quota prescribed for the purpose of compassionate appointment is only 5% of the total DR vacancies occurring in a year in Group 'C' and 'D' posts and therefore no case is considered individually or Unit wise, but all the cases received from various Units are considered by the Board of Officers constituted at the Headquarters as per the Government policy, to find out the most deserving cases in acute financial distress/more indigent in comparison to other similarly placed cases, against the 5% quota of DR vacancies occurring in a given year.

3. Accordingly, the Board of Officers take the various aspects as stipulated in MOD ID No 19(4)/824-99/1998-D(Lab) dated 09-03-2001, such as family size including ages of children, amount of terminal benefits, amount of family pension, liability in terms of unmarried daughter(s), minor children etc, movable/immovable properties left by the deceased at the time of death, to find out the cases of acute financial distress/most deserving case in relative merit and recommends only the really deserving cases that too only if clear vacancy meant for appointment on compassionate grounds exists within the ceiling of 5% DR vacancies. Further the Committee 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

*Certi fieds be
Date 10/02/07
S. M. D. T. M.*

Contd ..2/-

a year, that too within the ceiling of 5% prescribed for the purpose, in view the Hon'ble Supreme Court ruling in Judgement dated 4th May 1994 in the case of Umesh Kumar Nagpal Vs State of Haryāna and others (JT 1994 (3) SC 525) wherein it has been held that "Offering appointment on compassionate ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt, servant is legally impermissible and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future".

4. According to the information available on record, the following is the position(status of the family of the deceased (MBO/Missing) government:-

(a) The death/MBO/Missing of the Government Servant occurred on 20.04.98 His Wife 01 son 02(s) and daughter (s) survive him. The deceased (MBO/Missing) govt. servant's family received Rs. 63,958/- as terminal benefits. At present they are in receipt of monthly pension of Rs 2960/- plus Dearness relief of Rs ____/-.

(b) The family owns 05 Bighas land (property (land) Rs-/-with income of Rs.24,000/- P.a and house (flat) worth Rs ____/- permonth.

5. The Board of Officers at Army Headquarter after taking into account each aspect referred to above has considered your case alongwith other candidates. However, due to more deserving cases and few vacancies available, your case was not recommended by the BOO for appointment on compassionate ground. In view of this the competent authority is of the view that your case does not deserve employment assistance on compassionate grounds.

6. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgments of the Hon'ble Supreme Court and that the appointment on compassionate grounds is not a matter of right and after a balanced and objective-assessment of the totality of the circumstances of the case including the decision of Board of Officers at Army Headquarter, the Competent authority has rejected the employment assistance to Shri Parag Jyoti MUDoi S/O Late T Modui, Maz of GE Tezpur on compassionate grounds.

Yours faithfully,
(Arvind Parashar)
EE (SG)
Offg Dir (Pers & Legal)
For Chief Engineer

Encls:-C.)

Copy to:

Engineers in Chief Branch - For information
Army Headquarters
New Delhi
Pin : 110 011

HQ Eastern Command - For information
Engineers Branch
Fort William
Kolkata

CWE Tezpur
GE Tezpur

Tele : 5032 (Mil)

HQ Chief Engineer
Shillong Zone
SE Falls Camp
Shillong - 11

70601/25/ 162 /EIC(1)

of Sep 2006

Shri Parag Jyoti Mudoi
 S/O (L) Thaneswar Mudoi
 Vill : Puranitelia
 PO : Nagsankar
 Dist : Sonitpur

APPOINTMENT ON COMPASSIONATE APPOINTMENT

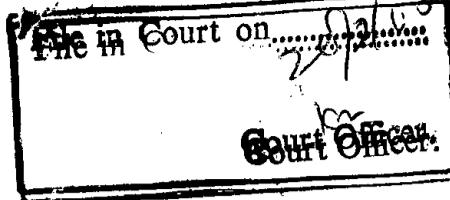
1. Reference your application dated 20th Jul 2006 .
2. It is intimated that your case has been considered in the Board for Quarter Ending Mar 04, Jun 04 and Dec 05 but due to low in merit as well as non availability of vacancy your case could not be considered for appointment . However your case is being carried forward again in the Board for the QE Mar 2006 .

(Arvind Parashar)
 EE(SG)
 Offg Dir(Pers & Legal)
 For Chief Engineer

Copy to :-

Chief Engineer : - for info wrt your letter No. 131528/3A/5065/Engrs/
 HQ Eastern Command EIC(3) dated 01 Aug 2006.
 Fort William
 Kolkata - 21

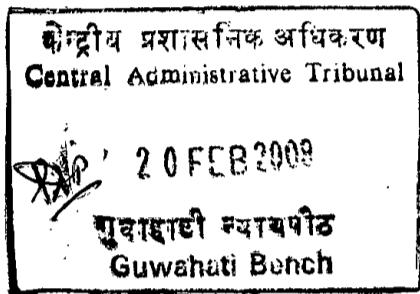
Certified to be
 true copy.
 J.P.W.



1

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL, GUWAHATI BENCH

File No. 20/2008
The respondents
through
Plaintiff
Advocate
Karmukh
Amit Jyoti
Mudoi



In the matter of :

O.A. No. 269/07

Sri Parag Jyoti Mudoi

.....Applicant

- vs -

Union of India & ors.

.....Respondents

- And -

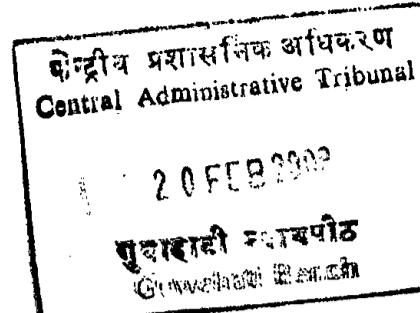
In the matter of :

Written Statement on behalf
of the respondents.

(WRITTEN STATEMENT ON BEHALF OF
RESPONDENTS)

I, Sri Major Karmukh Amit Jyoti Mudoi, son
of Mr S D Karmukh, presently working
as Garrison Engineer, Tezpur in the district
of Sonitpur, Assam, do hereby solemnly
affirm and state as follows :-

1. That I am the Garrison Engineer, Tezpur, P.O. Dekargaon, Tezpur-784501 in the district of Sonitpur, Assam. I have been impleaded as a party Respondent No.6 in the aforesaid application and accordingly a copy of the same has been served upon me. I have gone through the same and have understood the contents thereof. Being the



2
Garrison Engineer, I am acquainted with the facts and circumstances of the case. I have been authorized to file this written statement on behalf of all other Respondents.

2. I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

3. That the applicant's father Late Thaneswar Mudoi was working as majdoor in MES under the Garrison Engineer, Tezpur. He died on 20.8.98. After the death of his father the applicant applied for the post of majdoor to any other post vide application dt. 9.11.03 on compassionate ground in MES Department long back after more than 5 years.

4. That thereafter, the matter was processed and forwarded to the Headquarter CWE, Tezpur vide letter dt. 22.12.03. Thereafter the case was referred to the Headquarter Chief Engineer, Shillong Zone and finally the matter then placed before the Engineer-in-Chief's Branch, Army Headquarter, New Delhi.

5. That the object of the granting compassionate appointment is to enable to tide over sudden crisis and to relief the family of the deceased from financial and destitution and to help it get over the

Korulbor Amil Anwala

20 FEB 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

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Amrit
Karmaker

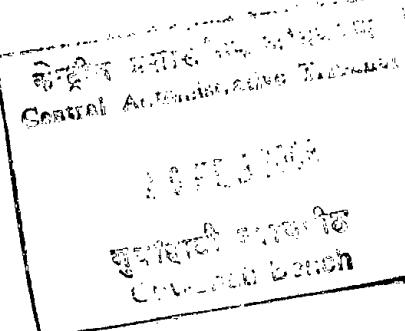
emergency. Further as per instruction envisaged in the office memorandum for compassionate appointment the prescribed period is for only one year. However, the prescribed committee may review cases to evaluate the financial condition of the family and to arrived at a decision by one more for consideration of compassionate appointment subject to availability of a clear vacation of five percent quota.

6. That as per the information available on record the position/status of the deceased id fount as follows :-

(a) The family receipt Rs.63,958/- Sixty Three Thousand Nine Hundred and Fifty Eight) only as terminal benefits and the monthly family pension of Rs.2960/- (Rupees Two Thousand Nine Hundred and Sixty) only plus Dearness relief.

(b) The family owns 5 Bighas land (property land) with income of Rs.24,000/- (Rupees Twenty Four Thousand) only per annum and also having the house (flat) from where some monthly income coming.

7. The Board of Officers after careful scruting of the documents of the applicant along with other deserving candidates has come to a finding that there are more deserving cases are in que against five



Korukkor Amrit Narash

percent quota of compassionate appointment where only few vacancy available and as such the applicant's case was not recommended by the Board of Officers for appointment on compassionate ground. Hence, in view of the above circumstances and after considering the case of the applicant in the light of the instructions incorporated in the office memorandum issued by the Department of Personnel and Training and as per decision of the various judgment passed by the Apex Court by assessing the balanced objective assessment the competent authority has rejected the employment assistant to the applicant.

8. REPLY TO THE FACTS OF THE CASE

8.1 That with regard to the statement made in paragraphs 1, 2, 3 and 4 of the application the humble answering respondent has nothing to make comment on it. He however does not admit any statements which are contrary to records.

8.2 That with regard to the statement made in paragraph 5 it is stated that these are the scheme formulated by the Government of India and hence nothing to make comment on it.

8.3 That with regard to the statement made in paragraph 6 of the application, the

humble answering respondent begs to state that the applicant's father Late Thaneswar Mudoi was working as majdoor in MES under the Garrison Engineer Tezpur. He died on 20.8.98. After the death of his father the applicant applied for the post of majdoor or any other post vide application dt. 9.11.2003 on compassionate ground in MES Department long back after more than five years. The matter was processed and vide letter dt. 22.12.03 the application was forwarded to the Commander Works Engineer, Tezpur. Accordingly, C.W.E. forwarded the case of the applicant to the Headquarter, Chief Engineer, Shillong Zone vide letter dt. 7.6.04.

8.4 That with regard to the statement made in paragraph 7 of the application the humble answering respondent begs to state that the documents submitted by the petitioner are scrutinized however some discrepancies appeared and the applicant was therefore asked to submit the required documents and information. After obtaining the same the Headquarter, Chief Engineer, Shillong Zone (Respondent No.5) convened the Board of Officers to assess the suitability for compassionate appointment.

8.5 That the object of the granting compassionate appointment is to enable to tide over sudden crisis and to relief the family of the deceased from financial and destitution and to help it get over the

emergency. Further as per instruction envisaged in the office memorandum for compassionate appointment the prescribed period is for only one year. However, the prescribed committee may review cases to evaluate the financial condition of the family and to arrived at a decision by one more for consideration of compassionate appointment subject to availability of a clear vacation of five percent quota.

8.6 That as per the information available on record the position/status of the deceased id fount as follows :-

(a) The family receipt Rs.63,958/- Sixty Three Thousand Nine Hundred and Fifty Eight) only as terminal benefits and the monthly family pension of Rs.2960/- (Rupees Two Thousand Nine Hundred and Sixty) only plus Dearness relief.

(b) The family owns 5 Bighas land (property land) with income of Rs.24,000/- (Rupees Twenty Four Thousand) only per annum and also having the house (flat) from where some monthly income coming.

8.7 The Board of Officers after careful scruting of the documents of the applicant along with other deserving candidated has come to a finding that there are more deserving cases are in que against five

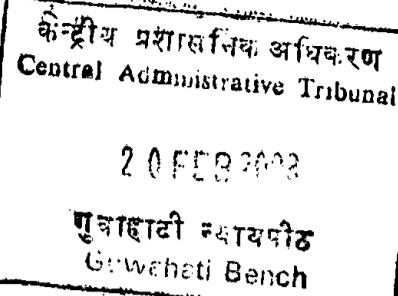
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गुवाहाटी न्यायालय
Guwahati Bench

percent quota of compassionate appointment where only few vacancy available and as such the applicant's case was not recommended by the Board of Officers for appointment on compassionate ground. Hence, in view of the above circumstances and after considering the case of the applicant in the light of the instructions incorporated in the office memorandum issued by the Department of Personnel and Training and as per decision of the various judgment passed by the Apex Court by assessing the balanced objective assessment the competent authority has rejected the employment assistant to the applicant.

8.8 That with regard to the statement made in paragraph 8 of the application the humble answering Respondent begs to state that considering the applicant's case in June, 04' the matter was referred to the Board of Officers. However, after balanced and objective assessment of the totality of the circumstances of cases of deserving candidates it was found that there are more deserving cases against the five percent quota of compassionate appointment were only few vacancy available and hence his case for appointment on compassionate ground could not be acceded to.

8.9 That with regard to the statement made in paragraph 11 of the application the humble answering Respondent begs to state



that the applicant 's father died on 20.8.1998 and he made application for employment assistant on 9.11.03 i.e. long after five years prior that he never made an application before the authority. Further, as and when his application was received the authority immediately processed the matter and disposed of his case vide order dt. 19.2.07.

8.10 That the humble answering Respondent begs to state that the appointment on compassionate ground is not a matter of right. Further the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family from financial destitution and to help it get over the emergency. Further the appointment on compassionate ground can be made only if a vacancy available for that purpose. In the instant case against the few vacancy there is more other deserving candidate and after balanced and objective assessment his case for compassionate appointment was rightly rejected.

20 FEB 2008

गुवाहाटी न्यायालय
Gauhati Bench

9

VERIFICATION

I, Sri Major Karulkar Amit Swarsh . son of Mr S D Karulkar aged about 35 yrs, presently working as Garrison Engineer, Tezpur in the district of Sonitpur, Assam, do hereby solemnly affirm and state as follows :-

1. That I am the Garrison Engineer, Tezpur under P.O. Dekargaon and I have received a copy of the petition, understood its contents and I am well acquainted with the facts and circumstances of the case and sign this verification on behalf of all the Respondents.

2. That the statements made in paragraphs 1, 2, 5, 8.1, 8.5 and 8.10 are true to my knowledge and those made in paragraphs 3, 4, 6, 7, 8.2 to 8.4 and 8.6 to 8.9 are matters derived from and true to my information and knowledge and the rest are my humble submissions before this Central Administrative Tribunal and I sign this verification on 20/3 this day of February 2008, at Tezpur.

✓ Karulkar Amit Swarsh

SIGNATURE



Amit Karulkar
Major
Garrison Engineer