

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 58/2007

R.A/C.P No.

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22/09/17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDER SHEET

1. Original Application No. 58/07
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) B. K. Sarma VS Union of India & Ors

Advocate for the Applicant(S) S. Sarma, B. Devi
H. K. Das

Advocate for the Respondent(S) CASE

Notes of the Registry	Date	Order of the Tribunal
<p>The application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/BB No. <u>286/98982</u> Dated <u>17.2.07</u></p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>[Signature]</i> 6.3.07</p> <p>Particulars copy and envelopes are not received.</p> <p><i>[Signature]</i></p>	<p>09.03.07.</p> <p>1m</p> <p>12.3.07.</p> <p>1m</p>	<p>post the matter on 12.3.07.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No Costs.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i> Member</p>

Received Copy

[Signature]

20/3/07

Received copy

for Mrs. H. Das

add. C. G. S. C. a. S. H. M. M. M.

7

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

(O.A.No.58 of 2007)

DATE OF DECISION: 12.03.2007.

HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN
HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Shri B.K.Sarma

APPLICANT

Mr.S.Sarma

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

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

Judgment delivered by Hon'ble Vice-Chairman

W
13/3/07

4

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original application No.58 of 2007

Date of Order: This the 12th Day of March, 2007.

HON'BLE MR.K.V.SACHDANANDAN, VICE-CHAIRMAN

HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER

Shri Biraja Kanta Sarma,
S/O.Late R.K.Sarma
R/O Vill & P. O. Bihampur
Nalbari,
Dist. Nalbari, Assam.

Applicant

By Advocate Mr. S.Sarma, Ms. B. Devi, Mr. H. K. Das.

-Versus-

1. Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Health and Family Welfare,
New Delhi.
2. The Director, General of Health Services,
Govt. Medical Store Depot.
Ministry of Health and Family Welfare,
New Delhi.
3. The Chief Medical Officer,
Ministry of Health and Family Welfare,
Govt. Medical Store Depot,
Guwahati-16.
4. The Chief Medical Officer,
Ministry of Health and Family Welfare.
Govt. Medical Store Depot,
9.Cycle Row, Hastings
Kolkatta-22.

Respondents.

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

ORDER (ORAL)

SACHIDANANDAN,V.C:

The applicant was appointed as Pharmacist cum Clerk and he continued till 1984. On medical ground the applicant applied for leave. The authority granted leave but such leave was never extended beyond the applied leave period as prayed for by the

✓


applicant. The applicant submitted a representation dated 01.03.1994 to the respondents to allow him to resume duty. But the respondents have not considered his representation. Aggrieved by the said action of the respondents the applicant has approached this Tribunal by filing O. A. No. 126 of 1994. This Tribunal has passed an order dated 1.8.1994 (Annexure A) directing the respondents to permit the applicant to join in service. After the said judgment and order the applicant requested the authority for his reinstatement as Pharmacist cum Clerk. But the respondents have rejected his prayer by passing an order dated 16. 9.1996 on the ground of age factor. Thereafter, the applicant has approached this Tribunal again by filing O.A.No.216 of 1997(Annexure C) dated 6.5.1999. This Tribunal has directed to give appointment to the applicant by relaxing the age bar as stated in the Office order (Annexure- G) dated 29.01.03. The respondents have challenged the judgment and order dated 6.5.1999, and have preferred a Writ Petition before the Gauhati High Court and the High Court has disposed of the same by refusing to interfere with the order of the Tribunal. The applicant has made representation dated 07.09.2006(Annexure L) but there is no response. Being aggrieved the applicant has filed this O.A. seeking the following reliefs:-

- 8.1." To set aside and quash the impugned action of the respondents in not counting the 13 years of continuous service of the applicant for grant of consequential service benefits.
- 8.2 To direct the respondents to count the past 13 years of service of the applicant for the purpose of seniority, re-fixation of pay, along with arrear salary due after re-fixation and to allow him to draw pension and other retirement dues.

8.3 To direct the respondents to treat the period w.e.f. 1994 to 29.01.2003 as on duty by adjusting the same as admissible leave."

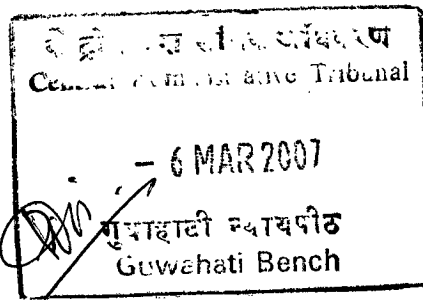
We have heard Mr.S.Sarma learned counsel for the applicant and Mrs. M. Das learned Addl.C.G.S.C. for the respondents. When the matter came up for hearing the learned counsel for the applicant has submitted that he will be satisfied if direction is given to the Respondent No.2 to consider his representation dated 7.9.2006(Annexure L) within a time frame. Counsel for the respondents has submitted that he has no objection if such direction is given to the respondents. In the interest of justice Court directs that Respondent No.2 or any other competent authority shall consider and dispose of the same and pass a speaking order within a time frame of two months from the date of receipt of this order. Liberty is given to the applicant to file comprehensive representation before the respondents within 10 days from today. The respondents shall consider the same alongwith the representation dated 7.9.2006 and pass a speaking order within the above time frame.

O.A. disposed of. There will be no order as to costs.


(TARSEM LAL)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 58.....of 2007.

BETWEEN

Shri Biraja Kanta Sarma..... Applicant.

AND

Union of India & ors..... Respondents.

SYNOPSIS

Instant OA filed by the applicant is based on the impugned action on the part of the official respondents in not calculating the past 13 years of qualifying regular service of the applicant towards extending the consequential service benefits after his reinstatement. The representations filed by the applicant remained unattended and same are yet to be replied to by the respondents. Though there was a move to regularise the gap period of the applicant by granting him leave as applicable but same is yet to be materialized.

This is crux of the issue involved in the present OA for which the applicant has come under the protective hands of the Hon'ble Tribunal.

19/11

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 58 of 2007.

BETWEEN

Shri Biraja Kanta Sarma..... Applicant.

AND

Union of India & ors..... Respondents.

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Filed by : Miss. B.Devi, Advocate.

Regn.No.:

File : WS7\BIRAJA

Date : 5.3.07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

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

Filed by:-
for Applicant
through
Chdip ver. Advocate
S. 3. 07

O.A.No. 58 of 2007

BETWEEN

Shri Biraja Kanta Sarma.
S/o Late R.K.Sarma,
R/o Vill-& P.O.: Bihampur,
Nalbari,
Dist. Nalbari, Assam.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Health and Family Welfare,
New Delhi.
2. The Director, General of Health Services,
Govt. Medical Store Depot.
Ministry of Health and Family Welfare.
New Delhi.
3. The Chief Medical Officer.
Ministry of Health and Family Welfare.
Govt. Medical Store Depot,
Guwahati-16.
4. The Chief Medical Officer.
Ministry of Health and Family Welfare.
Govt. Medical Store Depot,
9, Cycle Row, Hastings
Kolkatta - 22.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION

IS MADE:

This application is not directed against any
particular order but has been directed against the inaction
on the part of the respondents in not calculating the

service rendered by the applicant as continuous and qualifying service for the purpose of granting service benefits including pension and in not posting the applicant in his earlier place of posting as assured by them.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985. That the applicant has preferred representations from time to time which was followed by the legal notice but same yielded no result in positive. The cause of action as ventilated by the applicant is a continuous one and same is a recurring cause of action.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights and protections as guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the applicant on 23.12.1971 got his initial appointment as Pharmacist cum Clerk and he continued till



1984. The applicant while was working as Pharmacist cum Clerk in the Govt. Medical Store Depot, Guwahati, in the year 1985, he became mentally imbalanced and applied for leave. The authority granted leave but such leave was never extended beyond the applied leave period, as prayed for by the applicant. The applicant after a long term of treatment could regain his health and he submitted a representation dated 01.03.1994 to the respondents to allow him to resume duty. In fact the respondents being well acquainted with the fact of his ailment, had neither drawn any disciplinary proceeding against him, nor terminated his service.

4.3. That the applicant made several representations to the respondents for allowing him to resume duty by submitting due medical certificate. Since the service of the applicant was not terminated, the respondents ought to have allowed the applicant to resume duty by treating his period of absence as medical leave but instead of that there was a complete silence on the part of the respondents in respect of the prayer made by him. This has compelled the applicant to approach the Hon'ble Tribunal by way of filing Original Application which was registered and numbered as O.A No 126/1994. The Hon'ble Tribunal having regard to the facts and circumstances of the case and upon hearing the parties to the proceeding was pleased to dispose of the said O.A vide judgment and order dated 1.8.94 directing the respondents to consider the appointment/reinstatement of the applicant. The Hon'ble Tribunal while passing the aforesaid judgment and order dated 1.8.1994, has taken note of the sickness and sufferings of the applicant.

A copy of the said judgment and order dated 1.8.94 is annexed herewith and marked as ANNEXURE - A.

4.4. That immediately after the said judgment and order dated 1.8.1994, the applicant requested the authority concerned for his reinstatement as Pharmacist cum Clerk. But the respondents while entertaining his such prayer passed the order dated 16.09.1996, rejecting his prayer for reinstatement. The ground stated by the respondents in the said order was his dis-qualification i.e, the age factor.

A copy of the said order dated 16.09.1996 is annexed herewith and marked as ANNEXURE - B.

4.5. That thereafter the applicant had to approach the Hon'ble Tribunal once again by instituting O.A No 216/1997, while registering his grievance against the aforesaid impugned order dated 16.09.1996. It is stated that the basic contention raised in the said impugned order was that the applicant has been overaged for consideration of his case. The Hon'ble Tribunal took the view that the applicant being an employee of the respondents, his age should not be a factor for disqualification for such appointment. The Hon'ble Tribunal having regard to the peculiar facts of the case was pleased to dispose of the said O.A vide judgment and order dated 6.5.99 with a direction to the respondents to appoint the applicant in the post of Pharmacist cum Clerk.



A copy of the said judgment and order dated 06.05.1999 is annexed herewith and marked as ANNEXURE - C.

4.6. That the respondents challenging the judgment and order passed by the Hon'ble Tribunal dated 06.05.1999, have preferred a Writ Petition before the Hon'ble High Court and the Hon'ble High Court after hearing the parties to the proceeding was pleased to dispose of the said Writ Petition vide judgment and order dated 11.9.01 refusing to interfere with the judgment and order passed by the Hon'ble Tribunal.

Copy of the said judgment and order dated 11.09.2001, passed by the Hon'ble High Court is annexed herewith and marked as ANNEXURE- D.

4.7. That the respondents even after passing of the judgment and order of the Hon'ble High Court, did not implemented the same. The applicant complaining contempt against the respondents filed C.P No. 34 of 2002 (in O.A No 216/97). The Hon'ble Tribunal on 16.08.2002 issued notices to the contemnors thereto enabling them to show cause. The contemner No 2, thereto has filed an affidavit in the said CP and assured that the applicant will be reinstated and adjusted against the available vacancy. In the said affidavit the respondents have highlighted the communications dated 30.09.2002, 23.10.2002 and 4.12.2002 issued by the Dy. Director, Director of Health Services (Medical Stores Organisation), New Delhi, wherein there was a direction to the said contemner to adjust the applicant in



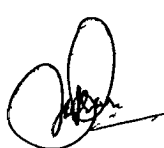
the post of Pharmacist cum Clerk. It is stated that the applicant was in regular employment under the respondents since 23.12.1971, having 13 years of continuous service till 1984, and his service was never been terminated by the respondents at any point of time. The Hon'ble Tribunal having regard to the said assurances made on behalf of the respondents, closed the CP vide judgment and order dated 20.12.2002, directing the respondents to pass necessary order appointing the applicant within two weeks.

A copy of the said order dated 20.12.2002 is annexed herewith and marked as ANNEXURE- E.

4.8. That the respondents as per the judgment and order passed by the Hon'ble Tribunal as well as the subsequent orders dated 30.09.2002, 23.10.2002 and 4.12.2002 issued by the Dy Director, Director of Health Services (Medical Stores Organisation), New Delhi, issued a communication dated 7.2.2003, to his counsel regarding the appointment of the applicant in the post of Pharmacist cum Clerk under the respondents.

A copy of the said communication dated 07.02.2003 is annexed herewith and marked as ANNEXURE - F.

4.9. That the applicant begs to state that the respondents have issued an order dated 29.01.2003 appointing him in the post of Pharmacist cum Clerk. It is stated that



the respondents in the said order have mentioned that he will not get his seniority and he will not be entitled to pensionary benefits.

A copy of the said order dated 29.1.2003 is annexed herewith and marked as ANNEXURE- G.

4.10. That the respondents at the time of issuance of the the order dated 29.01.2003, issued another order dated 29.01.2003, indicating the condition of service that the applicant would not get the seniority and he will rank junior to all the incumbent in the said cadre, without re-fixation of pay. The applicant submitted his willingness highlighting that said condition has been accepted without any prejudice to his right.

Copies of the said order dated 29.1.2003 and the acceptance letter dated 29.01.2003 is annexed herewith and marked as ANNEXURES - H AND I respectively.

4.10. That the applicant begs to state that in terms of the said order he resumed his duty and by now he has completed the period of probation and his service has been confirmed under the respondents. The applicant praying for counting his past service w.e.f. 23.12.1971 to the year 1985, for the purpose of seniority, pay fixation and calculating pensionary benefits, made a representation before the concerned authority.



A copy of the said representation
19.12.2003 is annexed herewith and
marked as ANNEXURE - J.

4.11. That the applicant begs to state that the respondents have illegally refused to grant him the due seniority, pay fixation and benefit of counting the past service for pensionary dues. It is stated that before confirmation of his service the respondents themselves have called for the service book of the applicant by issuing a communication dated 29.10.2003.

It is further stated that in the said communication the Dy Director General (MS), GMSD, Kokatta, requested the Dy. Asstt. Director General (MS), Govt. Medical Store Depot, Guwahati to send the service book of the applicant and to place on record the fact as to how the period of gap/ absence of the applicant has been treated.

A copy of the said communication
dated 29.10.2003 is annexed herewith
and marked as ANNEXURE - K.

4.12. That the applicant begs to state that the respondents have realized the fact that there was no order terminating his service and as such he would be entitled to the continuity in service and other consequential service benefits. It was therefore to calculate the past service for



the aforesaid benefits the service book of the applicant that was prepared and maintained by the respondents GMSD, Guwahati at the time of his initial appointment i.e, on 23.12.1971, with a further direction to regularise the "gap" period so as to enable him to grant the consequential benefits, the respondents have called for the service book of the applicant to provide him the past service benefits. The applicant could come to know that the GMSD, Ghy, has not sent the correct information and as such the period of absence / "gap" could not be regularized.

4.13. That the applicant made several representation to the authority concerned but same yielded no result in positive. It is stated that in terms of the provisions contained in FRSR, the applicant is entitled to all the service benefits of his past 13 long years of regular and unblemish service. The respondents have maintained a total silence in the matter and refused to count his past 13 years service in the same capacity for consequential benefits which includes seniority, re-fixation of salary, and pensionary benefits. There has been continuous assurances from the respondents that he would be granted the benefit of his past service and he would be entitled for pension and other related service benefits but nothing has been done so far in the matter.

4.14. That the applicant begs to state that the respondents have acted contrary to the provisions of the service rules in refusing to count the past 13 years of continuous service of the applicant towards the consequential service benefits. The impugned communications



indicating the service condition are contrary to the provisions of law and same opposes the constitutional mandates. It is stated that the law is well settled that denial of counting past service as well as pension is bad in law and in the service jurisprudence there is no provision for such denial. It is therefore the action/ inaction on the part of the respondents are liable to be set aside and quashed.

4.15. That the applicant is constantly pursuing the matter to the authority concerned i.e., his present controlling authority GMSD/Kolkatta, as well as the GMSD/Ghy but same yielded no result in positive. The representations filed by the applicant is yet to be disposed of. It is stated that basing on the assurances given by the respondents the applicant waited for long but as on date nothing has been done so far in the matter. The applicant could gather the information that, it was in the month of October, 2006 the concern authority has made some correspondences with the GMSD/Ghy for doing the needful in the matter but nothing has been communicated to him. It is stated that due to non-fixation of the pay of the applicant and not granting him the service benefits of earlier 13 years of service he has suffered a lot and presently it has become impossible for him to run his family.

A copy of one of such representations dated 07.09 2006 is annexed herewith and marked as ANNEXURE - L



It is under the facts and circumstances of the case the applicant has come under the protective hands of the Hon'ble Tribunal seeking redressal of his grievances.

5. GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in not treating the past 13 years of service of the applicant is illegal and arbitrary and violative of the provisions of Constitution of India and the laws framed thereunder.

5.2. For that the action of the respondents in keeping the matter of counting of past service of the applicant for consequential benefits pending since long is totally uncalled for and same is liable to be set aside.

5.3. For that the respondents have violated the settled provision of law in not treating the applicants past service as continuous service and thereafter to grant him all the other service benefit including seniority, re fixation of pay, pension etc and to treat the gap period as on duty by adjusting the same as admissible leave etc.

5.4. For that the respondents have failed to apply their mind while passing the impugned orders and committed serious injury to the applicant harassing him financially.



5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant



application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be granted the following reliefs to the applicant:-

8.1. To set aside and quash the impugned action of the respondents in not counting the 13 years of continuous service of the applicant for grant of consequential service benefits.

8.2. To direct the respondents to count the past 13 years of service of the applicant for the purpose of seniority, re fixation of pay, along with arrear salary due after re fixation and to allow him to draw pension and other retirement dues.

8.3. To direct the respondents to treat the period w.e.f. 1994 to 29.01.2003 as on duty by adjusting the same as admissible leave.

8.4. Cost of the application.

8.5. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case as deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Considering the facts and circumstances of the case, the applicant does not pray for any interim order at this stage.



10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 28G 989983
2. Date : 17. 2. 07
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.



VERIFICATION

I, Shri Biraja Kanta Sarma, son of Late Rajani Kanta sarma, aged about 54 years, resident of Village and P.O. Bihampur, Dist-Nalbari, Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 4.12, 4.13, 4.16..... are true to my knowledge and those made in paragraphs 4.2 - 4.11, 4.15..... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 3rd day of March of 2007.

Biraja Kanta Sarma

Signature.

GOVT. MEDICAL STORE
GUWAHATI
2508
Dist. No.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH (11 GUWAHATI) - 5

O.A. 126/94

Sri B.K. Sarma Applicant
-VS-
Union of India & Ors. Respondents
P R C S E N T
THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,
THE HON'BLE SHRI R. L. SANGLYINE, MEMBER (ADMIN).
For the Applicant Mr. J.L. Sarkar,
Mr. N. Chanda,
Mr. M.K. Choudhury.
For the Respondents Mr. S. Ali, Sr.C.G.S.C.

1.8.94

Learner counsel Mr J.L.Sarkar for the applicant and Sr.C.G.S.C Mr S.Ali are present. Mr Ali has produced records. Records disclose that the applicant was an employee under respondents No.2 and 3 at Guwahati. His name was struck off from the list of employees for reasons available in record. Mr J.L. Sarkar submits that the applicant was mentally imbalanced and annexed medical certificate with the application. Mr Sarkar now prays for an order on the respondents to re-consider appointment of the applicant in the department. Mr Sarkar does not like to proceed with this application, if such an order is passed. Mr Ali submits that order of such nature, if made, be left with the discretion of the department.

This application is now disposed of with order as under:

The applicant is required to file an application/representation before the respondents seeking for appointment. Respondents shall consider the case of the applicant sympathetically for appointment in the department against available vacancy or next available vacancy.

This application is disposed of with the above order.

Registered with A/D

Sd/- S. HAQUE
VICE CHAIRMAN

Sd/- R.L.SANGLYINE
MEMBER (ADMIN)

Mem. No. : 3729

Date : 31/8/24

- Copy for information & necessary action to :
- (1) Shri Biraja Kanta Sarma, Ex-Pharmacist-cum-Clerk, Government Medical Store Depot, Guwahati.
 - (2) The Secretary, Govt. of India, Ministry of Health & Family Welfare, New Delhi.
 - (3) The Director General, Health Services, Govt. Medical Store Depot, Ministry of Health, New Delhi-22.
 - (4) The Dy. Assistant Director, General (F.S.), Govt. of India, Ministry of Health & Family Welfare, Govt. Medical Store Depot, Guwahati.
 - (5) Mr. N. Chanda, Advocate, Guwahati High Court, Guw.
 - (6) Mr. S. Ali, Sr.C.S.C., Guwahati Bench.

Attested
Advocate.

25/8/24
SECTION OFFICER/AD
25/8/24

ORE

545214

215223 GMSD IN

GOVERNMENT OF INDIA

Ministry of Health & Family Welfare

Directorate General of Health Services

17

ANNEXURE

B
23

Government Medical Store Depot

A. K. AZAD ROAD, P. O. GOPINATH NAGAR, GUWAHATI-781076

REGISTERED IN

16 SEP 1996

No. 1 Admn/104/EKS/

233034

Sri. Biraja Kanta Sharma,
C/O Dr. B. K. Sharma,
M. A. Road, Near Durbandeeh Museum,
P. O. Nehabari, Gu-781008 (ASSAM).

Reference his application etc. All for the appointment
to the post of Pharmacist-cum-Clerk and subsequent letter
etc. 10.7.96 Sri. Biraja Kanta Sharma, Ex-Pharmacist-cum-Clerk
of this depot is hereby informed that his candidature for the
filling up of vacant post of the Pharmacist-cum-Clerk of this
depot was considered carefully by the Selection Committee and
it was decided by the Selection Committee to reject the candi-
dature of Sri. B. K. Sharma as he had already crossed the pres-
cribed upper age limit for appointment to Govt. service. Hence
his request for appointment to the post of Pharmacist-cum-Clerk
cannot be acceded to.

(G. SUBRAMANIAN)
Asstt. Director General (MS)

REGD.

Not in original

Copy to :

The Dy. Director, Admn. (Sts),

M. S. O.,

Dte. Genl. of Health Services,

West Block No. 1, Ring No. 6,

N. K. Puram, New Delhi-110066, With ref. to the Dte. let. No.
C.18013/6/94-St. I dtd. 29.8.96 for kind information.

(G. SUBRAMANIAN)
Asstt. Director General (MS)

16/9/96

16/9

Attested

[Signature]

Att. Secy.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.216 of 1997

Date of decision: This the 6th day of May 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Biraja Kanta Sarma,
Ex Pharmacist-cum-Clerk,
Government Medical Store Depot,
Guwahati.

.....Applicant

By Advocates Mr A. Roy, Mr M. Chanda and
Mr S. Sarma.

- versus -

1. The Union of India, represented by the
Secretary, Government of India,
Ministry of Health & Family Welfare,
New Delhi.
2. The Director General of Health Services,
Government Medical Store Depot,
Ministry of Health,
New Delhi.
3. The Deputy Assistant Director General(M.S.),

Government of India,
Ministry of Health & Family Welfare,
Government Medical Store Depot,
Guwahati.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

ORDER

BARUAH.J. (V.C.)

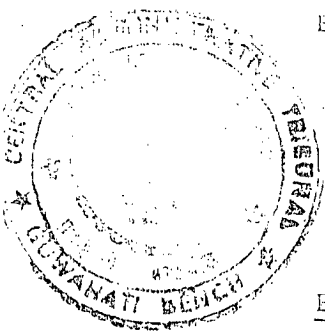
This application has been filed by the applicant seeking certain directions to the respondents.

2. Facts for the purpose of disposal of this application are:

The applicant was appointed Pharmacist-cum-Clerk on 23.12.1971 in the Government Medical Store Depot, Directorate General of Health Service, Guwahati. He read upto B.Sc. with three years Diploma course in Pharmacy and years Diploma course in Bio-Chemistry. In the year

Attested

[Signature]
Advocate.



1985 he became mentally imbalanced and accordingly he applied for leave. The authority granted him leave. However, on expiry of his leave further extension of leave was not granted. During that period he left home. But after some time he returned with the help of his friend. Thereafter he commenced a normal life. According to the applicant he was not terminated from service. As he remained out of service for a long time he submitted Annexure G representation dated 1.3.1994 requesting the respondent No.3 to allow him to continue his service. Thereafter, as nothing was done the applicant filed an original application (O.A.No.126 of 1994) before this Tribunal. The said application was disposed of by this Tribunal by order dated 1.8.1994 directing the respondents to consider the case of the applicant sympathetically. The applicant again submitted a detailed representation requesting the authority to put him back in service. However, on 16.9.1996 the impugned Annexure J order was passed. As per Annexure J order dated 16.9.1996 the applicant was not found fit because he was overaged. Hence the present application.

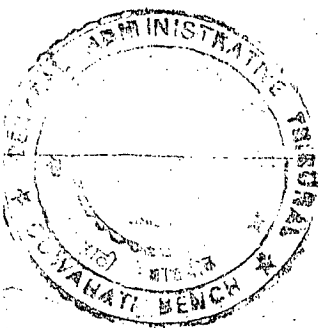
3. We have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. The respondents have not filed any written statement, The records have also not been produced. Mr Chanda submits that at no point of time the applicant's services were terminated although he remained absent for a long time. Mr Deb Roy does not dispute the same in view of the fact that no written statement has been filed and the records are also not available before him. Mr Chanda also submits that at no time the applicant was informed about his termination from service. As per the order of this Tribunal dated 1.8.1994 passed in O.A.No.126/94 his case

 ought.....

ought to have been considered sympathetically. The impugned Annexure J order dated 16.9.1996 shows that the authority just considered and stated that the applicant could not be appointed because he was overaged and not on any other ground. From the documents available before us it appears that according to the respondents the applicant submitted resignation which was accepted. However, the applicant has totally denied the same. The respondents have not come forward with necessary documents such as the letter of resignation, etc. Be that as it may, the applicant was suffering from mental sickness and this Tribunal by order dated 1.8.1994 passed in O.A.No.126/94 directed the respondents to consider his case sympathetically, therefore, in our opinion the age should not be a ground for rejecting his prayer. Mr Deb Roy also submits that in the fitness of things he may be given a fresh appointment by relaxing the age.

4. In view of the above we dispose of this application by directing the respondents that in the special circumstances the applicant be given an appointment by relaxing the age bar.

5. The application is accordingly disposed of. No order as to costs.



TRUE COPY
प्रतिनिधि

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-8

गुवाहाटी न्यायपीठ, गुवाहाटी-8

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMIN)

[Handwritten signature]

[Handwritten signature]

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W.P.C.

No. *6078* of 19 *28*

The Union of India

Appellant
Petitioner

Versus

*Central Administration Tribunal,
Gauhati Bench*

Respondent
Opposite-Party

Appellant
For
Petitioner

C. G. S. C.

Respondent
For
Opposite-Party

Noting by Officer or

Serial

Date

Office notes, reports, orders or proceedings
with signature

Attested

[Signature]

Advocate.

WP(C) 6078/99 (5)

29

Noting by Officer or Advocate	Serial No.	Date	Office Notes, Reports, Orders or Proceeding with signature
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11.9.2001

PRESENT :

THE HON'BLE THE CHIEF JUSTICE (ACTING)

THE HON'BLE MR. JUSTICE H.K.K. SINGH

Heard Mr. D. Sur, learned counsel for the petitioner.

This is one of those cases where justice has been sought to be done by the Central Administrative Tribunal with a pinch of compassion. The respondent (applicant before the Tribunal) had been appointed Pharmacist-Clerk in the Government Medical Stores Depot, Directorate General of Health Services, Govt. of India, Guwahati, in December, 1979. He read upto B.Sc. with three years Diploma course in Pharmacy and four years Diploma course in Bio-Chemistry. Unfortunately, in 1985, he became mentally imbalanced and on that ground applied for medical leave, which was duly sanctioned. However, on expiry of the sanctioned leave, he was not granted any further extension.

It was the case of the applicant before the Tribunal that when he became alright, he reported back for duty sometime in the year 1994; but he was told that his services stood terminated. However, no order of termination was ever served on the applicant or produced before the Tribunal. He, by O.A. No. 120/94 filed before the Tribunal, asked for a direction to the respondents therein (now, the writ petitioner) that he should be allowed to continue in service. The Original Application was disposed of on

1.8.94

(b)

Nothing by Officer or
Advocate

Serial
No.

Date

Office Notes, B. No.,
Orders or Procs. etc.
with signature

11.9.2001 (cont.)

1.8.94 directing the writ petitioner (respondents before the Tribunal) to consider his representation sympathetically. However, on 16.9.96 an order was passed that the applicant before the Tribunal could not be appointed as he has already become overage for entering into Govt. service. This led the applicant to file another O.A. before the Tribunal, which has been disposed of by the impugned order dated 6.5.99. The view taken by the Tribunal is that in the absence of any written reply on behalf of the respondents before the Tribunal, no order of termination being forthcoming and then to say that the applicant's case has been considered sympathetically, could not be said to be correct on the part of the respondents before the Tribunal, inasmuch as, the applicant's representation was thrown out on the ground of his being overage. As per the order of the Tribunal, the intention of the Tribunal was to consider the case of the applicant even for fresh appointment by relaxing the requirement of age.

We are of the opinion that a sympathetic view was taken under the facts and circumstances by the Tribunal where such directions have been given. We do not find it a fit case for interference. Let the writ petitioner consider the case of the respondent (applicant before the Tribunal) even for fresh appointment to any suitable post commensurate with his qualifications, as and when a post is vacant. Learned counsel for the respondent (applicant before the Tribunal) states that his client is prepared to work at any

Nothing by Officer or
Advocate

Serial
No.

Date

Office Notes, Reports,
Orders or Proceeding
with signature

11.9.2001 (contd.)

place, wherever a post may be lying, commensurate
with his qualifications.

The writ petition is disposed of in the
above terms.

ORDER SHEET

Original Application No. _____/

Misc Petition No. _____/

Intercept Petition No. 34/02 in C.A. 216/97

Review Application No. _____/

Applicant: Priyanka Ramesh Sharma

-Vs-

Respondent(s) H.C.I. FirmB.K. SharmaAdvocate for the Applicant(s) Mr. M. Chandra, S. Sharma, V.K. MishraAdvocate for the Respondent(s) Mr. A. Deb Roy, Adv. V.D. Das

20.12.2002

This application is for contempt filed by the applicant for alleged non compliance of the judgment and order dated 6.5.1999 passed in C.A. No. 216/97. By the said judgment and order, the Tribunal directed the respondents to appoint the applicant under the respondents by relaxing the age bar. The respondents moved the High Court and by judgment and order dated 11.9.2001, the High Court refused to intervene in the matter. Mr. B.K. Sharma, learned Sr. counsel appearing on behalf of the applicant submitted that despite the direction issued by the Tribunal dated 6.5.1999, the applicant is yet to be appointed. Mr. Sharma, also submitted that the matter is a long pending one and the case of the applicant was considered by the Tribunal vide order dated 1.8.1994 passed in O.A. No. 126/1994.

Mr. A. Deb Roy, learned Sr. C.G. S.C. appearing on behalf of the respondents referring to paragraph 5 of the affidavit stated that one post of Pharmacist-cum-Clerk is lying vacant in Kolkata on retirement of Mr. A. Das on 30.11.2002 and the respondents are willing to appoint the applicant in that post with immediate effect after completion of the formalities. In the affidavit the respondents also stated that one post of Pharmacist-cum-Clerk will occur on 1.7.2003 in the Govt. Medical Store Depot, Guwahati.


Mr. B.K. Sharma, learned Sr. counsel for the applicant stated that the applicant is agreeable to accept the offer of appointment in Kolkata also. Since the applicant is agreeable, the matter may now be resolved.

The respondents shall now issue the appointment order to the applicant expeditiously as per the statement mentioned in paragraph 5 of the affidavit in terms of the communication dated 4.12.2002.

Attested


Advocate.

13 years

Note of the Registry	Date	Order of the Tribunal
	20.12.2002	<p>Mr. B.K. Sharma, learned Sr. counsel for the applicant also submitted that since the applicant remained out from the department since 1984-85 and the order was passed by the Tribunal on 1.8.94, he will lose the seniority and will be deprived of the pensionary benefits. We are not inclined to pass any order in the C.P. in this aspect, leaving it open to be resolved by the authorities themselves justly, fairly and reasonably.</p> <p>The respondents shall now complete the process of appointment of the applicant in Kolkata within two weeks from the date of receipt of the order.</p> <p>Subject to the observations made above, the contempt proceeding stands closed.</p>

Sd/ VICE CHAIRMAN

Sd/ MEMBER (ADM)

Memo. No. 3473

Dt. 27/12/02

Copy for information and necessary action to:

- 1) Mr. S. Sharma, Advocate, Gauhati High Court, Guwahati.
- 2) Mr. A. Deb Roy, S.C.S.C., C.A.T.

97
26/12/02
Section Officer (5)
Sd/ Officer (N)
C.A.T. GUWAHATI BRANCH
Guwahati-781005

Gram: MEDSTORE

GOVERNMENT OF INDIA

FAX No. 0361-45214

Ministry of Health & Family Welfare

Telex No. 235 2234 GMSD IN

Directorate General of Health Services

P. B. No. 84

Legal**Government Medical Store Depot**A. K. AZAD ROAD, GOPINATH NAGAR, GUWAHATI-781016
NO. Admn/164/BKS/ 88/11

To,

Shri Siddhartha Sarma (Advocate),
M.A. Road, Rehabari,
Guwahati - 781008.

07 FEB 2003

Sub:- Judgement & order dt. 20.12.'02 passed in C.P.
No. 34/02 in O.A.No. 216/97.

Ref:- Your letter No. WS7/Legal/NA dt. 20.01.'03.

Sir,

With reference to the above, it is stated that Shri B.K. Sharma, Ex-Pharmacist-cum-clerk of this depot has already been provided appointment at Govt. Medical Store Depot, Kolkata in compliance of the Hon'ble CAT, Guwahati judgement and order dt. 20.12.'02 passed in C.P.No. 34/02 in O.A. 216/97 vide Office Order No. 253(Part-II) dt. 29.01.'03.

This is for your information please.

Yours faithfully

Ramona

6/2/03

Dy. Asstt. Director Genl. (MS)
For Jt. Director, CGHS., Ghy. &
Incharge GMSD., Guwahati

Attested

[Signature]

Advocate.

GOVT. OF INDIA
GOVT. MEDICAL STORE DEPOT
9, CLYDE ROW, HASTINGS,
KOLKATA - 22.

Office Order No. 201

Part - II

Dated: 29.01.03

On agreeing and accepting the terms and conditions of appointment by Shri Biraja Kanto Sarma vide his acceptance dt. 29-01-03 against GMSD, Guwahati Office Order No. 253(Part-II) dt. 29-01-03 Quoting CGHS, MSO, R.K.Puram, New Delhi letter No. C-18018/6/99-ST.I dt. 10-01-03, he is allowed to join in duty at GMSD, Kolkata w.e.f. 29-01-03 (FN) in the post of Pharmacist-cum-Clerk on Temporary basis in the scale of Pay 4,500-125-7,000/-.

He will not be accorded any seniority in the cadre of Pharmacist-cum-Clerk at the Office and will be ranked Junior to all the incumbents in the said Cadre.

His initial Pay in the Post of Pharmacist-cum-Clerk is fixed at Rs. 4,500/- in the scale of Rs. 4,500-125-7000.

Other terms and condition as laid down in his appointment letter issued by the GMSD, Guwahati.

(P.K.Guha)

Deputy Director General (MS),
Kolkata - 22.

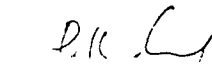
Copy to:-

1. Directorate General of Health Services,
Medical Store Organisation, R.K.Puram,
New Delhi - 66 with reference to Dte. letter No. C-18018/
6/99-ST. dt. 10-01-03.
2. Joint Director, CGHS I/C,
A.K.Azad Road, Gopinath Nagar,
MSD, Guwahati - 781 016.
3. Office Order Book.
4. Bill Table
5. Attendance Table.
6. Sr. Accounts Officer, PAO,
Min. of Health & F.W., Kolkata - 69.
7. Biraja Kanto Sarma.

Attested



Advocate.


(P.K.Guha)

Deputy Director General (MS)
Kolkata - 22.

Gram : MEDSTORE
 FAX No. : 0361-41214
 Tele. No. : 235 2234 GMSD IN
 Post. No. : 84

GOVERNMENT OF INDIA
 Ministry of Health & Family Welfare
 Directorate General of Health Services

Phone : 45214

36

Government Medical Store Depot

A. K. AZAD ROAD, GOPINATH NAGAR, GUWAHATI-781016

Office Order No.253.

(Part-II)

Date : 29.1.2003

Ref :- This depot O.O. No.235 (Pt-II) dt. 16.1.2003.

In pursuance of the Hon^{ble} C.A.T., Guwahati Order dt. 20.12.2002 in C.P.No.34/2002 (O.A.No.216/97) and instruction contained in the D.G.H.S. (M.S.O.), New Delhi's letter No. C.18018/6/99-St.1 dt. 10.1.2003 Shri Biraja Kanta Sarma, Ex-Pharmacist-Cum-Clerk of this depot is hereby re-appointed (fresh appointment by relaxing his age bar) purely on temporary basis to the post of Pharmacist-cum-clerk (Class-III, Non-Gazetted) in the Govt. Medical Store Depot, Kolkata with immediate effect on the pay of Rs. 4500-125-7000 plus usual allowances admissible in accordance with the rules & orders issued from time to time against the vacancy of Shri A.Das, Pharmacist-cum-clerk who has retired on 30.11.2002.

The appointment of Shri B.K.Sarma is subject to the following terms & conditions :-

1. His appointment is purely temporary and on ad-hoc basis and can be terminated at any time without assigning any reasons.
2. He will be on probation for 2 years from the date of appointment in the post subject to the continuance of his services. The appointment may be terminated at any time without any reasons and notice during the probationary period by the appointing authority. Thereafter the appointment may be terminated at any time by a month notice, given by either side viz. appointee or the appointing authority without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
3. Other conditions of service will be governed by the relevant rules and orders in force from time to time and
4. If any declaration given or information furnished by him is proved to be false or if he is found to have wilfully suppressed any material information, he will be liable to removal from services and such other action as Govt. may deem necessary.

Contd....2

Attested

 Advocate.

-29 4-

37

GOVERNMENT OF INDIA
Ministry of Health & Family Welfare
Directorate of Health Services
GOVERNMENT MEDICAL STORE DEPOT
A. K. ... with Nagar.
Guwahati-781016. Phone: 545214
GMS MEDSTORE FAX No: 0361-545214
GMS No-286 224 GMSD IN P. B. No-

- 2 -

5. He will loose the seniority in the grade of Pharmacist-cum-clerk and he will accorded seniority from the date of his joining the duty at G.M.S.D. Kolkata.
6. He will not be eligible for the pensionary benefits.


Jt. Director, CGHS & Incharge
GMSD., Guwahati.

No. Admn/164/BKS/
Copy to :-

8429

29 JAN 2003

1. The Director General of Health Services, (M.S.O.), West Block No.1, Wing No.6, R.K.Puram, New Delhi-66.
2. The Dy. Director General (MS), Govt. Medical Store Depot, 9-Clyde Row, Hastings, Kolkata-22.
3. The Pay & Accounts Officer, P&A.O., Min. of Health & F.W., Kolkata-69.
4. Shri B.K.Sarma, C/o. Dr. B.K.Sarma, P.O. Rehabari, Ghy-8.
5. The Accounts Officer, GMSD, Guwahati.
6. The Section Officer(J), C.A.T., Bhangagarh, Guwahati-5.


Jt. Director, CGHS & Incharge
GMSD., Guwahati.

To

The Dy. Director Prison (MSD) Kolko.
 Clyde Row Hastings. Kolko. 22.
 At Kolko the 29th Jan '03.

Sir: I pray for reinstatement of my service at Kolko.

Sir,

With reference to M.S.D. Letter No.

Part II

and Order No. 201, A. 29.01.03 I have accepted the
 terms & conditions of M.S.D. Sakshi and resumed
 my duty on dt. 29.1.03.

I have request to resume my
 duty on today forenoon dt 29.1.03. And this
 is without any prejudice.

Yours,

Faithfully Yours,

Mr Biraja Nanta Sarna.
 Kolko.

Attested

[Signature]

Advocate.

To,
The Deputy Asstt. Director General (MS)
Government of Medical Store Depot
A.K. Azad Road
Gopinath Nagar
Guwahati-781016.

Date: 19/12/03

Sub:- Counting of past service and payment of arrear salary.

Sir,

With due respect I beg to lay the following few lines for Your kind information and necessary action thereof.

That Sir, in terms of the order bearing no. Admn/164/BKS/9811 dated 7.2.2003 I was appointed in the post of Pharmacist-cum-Clerk. The office order dated 29.1.2003 appointing me in the said post indicated certain condition of such appointment.

That Sir, I making a grievance against the order 16.9.96 approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by filing O.A. No.126/94. The said Central Administrative Tribunal, Guwahati vide its judgment and order dated 1.8.94 directed the authority concerned to put me back in my service but my case was rejected by order dated 16.9.96. In the said order the cause of rejection was my age. But the order passed by the Central Administrative Tribunal, Guwahati Bench dated 1.8.94 gave a categorical direction for consideration of my case relaxing the age.

That sir, I had to approach the Hon'ble Tribunal once again by filing OA No.216/97 challenging the said order dated 16.9.96. The Hon'ble Central Administrative Tribunal, Guwahati Bench vide its judgment and order dated 6.5.99 disposed of the said OA directing the concerned authority to appoint me relaxing the age. Against the judgment dated 6.5.99 authority preferred W.P.(c) No.6078/99 before the Hon'ble High Court which was disposed of vide judgment and order dated 11.9.2001 affirming the judgment of the Hon'ble Central Administrative Tribunal, Guwahati Bench. The judgments in question was in operative and as such I had to prefer contempt petition before the Central Administrative Tribunal, Guwahati Bench. However, during the pendency of the said contempt petition I was given the appointment without there being any reference to my service. The service rendered by me in this organisation prior to my appointment under any circumstance can not be washed away. It is note worthy to mention here that way back in 1971 I was appointed in the same capacity and I kept on discharging my duty without any blemish and as such my past service is required to be taken into consideration enabling me to get consequential service benefits including arrear salary, seniority etc.

Attested



Advocate.

In view of the above I earnestly request Your Honour to count my past service for the purpose of all consequential service benefits including arrear salary and seniority and for which I shall remain ever grateful to you.

Thanking you,

Your's Faithfully

Biraja kanta Sengupta
Pharmacist-cum-Clerk
Govt. Medical Store Depot
Kolkata.

Copy to:

The Deputy Director General
Govt. Medical Store Depot,
9- Cycle Row, Hastings,
Kolkata-22.



- 33 -

ANNEXURE - K

सूचक : मेडिस्टोर
कोलकाता
ORANGE MEDISTORE
KOLKATA

भारत सरकार
स्वास्थ्य एवं परिवार कल्याण विभाग
सरकारी चिकित्सा सामग्री भंडार
9, पण्डित रो, हस्तिंग, कोलकाता-700 022
GOVERNMENT OF INDIA
MINISTRY OF HEALTH & FAMILY WELFARE
GOVERNMENT MEDICAL STORE DEPOT
9, CLYDE ROW, HASTINGS, KOLKATA-700 022

टेलीफोन / फ़ोन : 221-3594(12)
221-0309
221-0342
टेल / फ़ैक्स : 2210333

Ref/Reg PE/(Adm)/03-04/5026-5027

28-10-2003.

28/10/2003

To
The Dy. Asstt. Director General(MS)
Govt. Medical Store Depot,
A.K.Azad Road,
Gopinath Nagar,
Guwahati - 781 016.

Sub:- Service Book of Shri B.K.Sharma freshly appointed the
post of Pharmacist-Cum-Clerk at Govt. Medical Store
Depot, Kolkata - Regarding.

Sir,

Please refer to this office letter No. PE/(Adm)/02-03/5654 dt.
7-3-2003 regarding appointment of Shri B.K.Sharma, Pharmacist-Cum-Clerk
to this office w.e.f. 29-1-2003. The Service Book of Shri Sharma during
the period from MSD, Guwahati is required by this office for further
entry etc. as a fresh appointment. Kindly send the same at the earliest.

While sending his Service Book necessary entry about the
circumstances on which he was freshly appointed on Court order may please
be recorded alongwith the mode of treatment of "gap" period in which he
was absent from office at MSD, Guwahati.

This may be treated as urgent.

Yours faithfully,

Dy. Director General(MS)
Kolkata-22.

Copy to:-

The Dy. Director Adm.(St)
Dte. General of Health Services,
H.S.O, West Block No.1, Ring No.6,
R.K.Puram, New Delhi - 110 066.
- for information please

28/10
Dy. Director General(MS)
Kolkata-22.

Attested

Advocate.

To,

07.09.2006.

The Chief Medical Officer, (I/C),
Govt. Medical Stores Depot.
Gopinathnagar, Guwahati-16.
Assam.

Sub: - Prayer for consideration of my case for posting at GMSD, Guwahati and to refix my seniority with retrospective effect as directed by the Hon'ble Court.

Sir,

With due respect I beg to state the following few lines for your kind consideration and necessary action thereof.

That Sir due to my mental illness I was out of office for some time but after regaining my health I was not allowed to resume my duty for which I had to move the Hon'ble Central Administrative Tribunal. Hon'ble Tribunal allowed my case by passing the judgment-dated 01.08.94 directing my reinstatement in my post. However, the order was challenged by the Union of India through you in the Hon'ble High Court, but the Hon'ble High Court did not interfere with the judgment passed by the Hon'ble Tribunal. Even thereafter I had to file contempt petition before the Hon'ble Tribunal and it was only thereafter I got my reinstatement in Kolkata Office.

In the contempt petition it was made to understand that in the month of July I shall be posted back to the Guwahati Office and my seniority would be restored but now we in the month of December 2005, not to speak of restoring my seniority I am yet to get my posting in Guwahati Depot. It was at the relevant point of time since due to non-availability of the post in question I was posted at Kolkata Depot. till 31.06.05, but as on date I am continuing there at Kolkata as one of the Junior staff as my seniority has not been fixed taking into my past service. In fact due to non-fixing of seniority I am being deprived of my due salary as well as the avenue of further promotion. Apart from date in spite of repeated request I am yet to receive my arrear salary for which I am facing tremendous financial hardship.

That Sir, the Hon'ble Court in each of my litigating battle has directed my reinstatement at Guwahati Depot with restoration of my seniority but as on date none of my grievance has been answered in affirmative. Apparently, it was the gross mistake on the part of the GMSD, Guwahati, and knowing fully well the said mistake is yet to be rectified. Now at the age of 55 years I am being posted out of my native place that too without redressing my grievances. Not to speak of redressing my grievances I am yet to receive any reply of my as well as my counsel's communications in this regard.

That under this peculiar fact situation today I am before your honour with a prayer to redress my aforesaid grievances which includes my posting at Guwahati GMSD, fixation of my seniority, arrear salary etc.

I hope and trust that your honour would gracefully consider my case and redress my aforesaid grievances by appreciating the precarious condition.

Thanking You,

Faithfully yours,

Biraja Kanta Sarma

Biraja Kanta Sarma,
Pharamasist cum Clerk, GMSD, Kolkata.

Copy to :- 1. Director General (MS),
Govt. Medical Store Depot,
9, Cycle Row Hastings, Kolkata - 700022.

Attested



Advocate.