

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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8.7.2015
SECTION OFFICER (JUDL.)

ORDERSHEET

4. Review Application No. _____/

Advocate for the Respondant(S): 6420 C G S C

My of Notice order.
 1:00, is prepared & 20
 1st section 20
 to the applicant
 for the post.
 issued
 28 No. 167
 168
 209-400

(M.R.Mohanty)
Vice-Chairman

19.06.2009

Mr.N.Ahmed, learned counsel for the Applicant is present. Mr.M.U.Ahmed, learned Addl. Standing counsel, who is read with the counter undertakes to file the sam by Monday, the 22nd June, 2009. He is permitted to do so.

It appears from order dated 08.10.2007 of the Hon'ble Gauhati High Court rendered in W.P.(C) No.2103/2005 that the case of the Applicant received considerations thrice by the Board of Officers (a) during 20-31 January, 2001; when he was awarded 45 marks only and (b) on 25.05.2001; when he was awarded 63 marks only and (c) on 01.11.2001; when he was awarded 65 marks only.

Respondents should disclose as to how many candidates were there for consideration; how many vacancies were there under DR quota; as to how many vacancies were earmarked for compassionate appointment^{and} as to how much marks were secured by the last candidates offered compassionate appointment on each of the above said three occasions i.e., during January, 2001, on 25.05.2001 and on 01.11.2001.

Respondents should cause production of the records (and comparative chart) of those 3 considerations for perusal of this Tribunal.

Respondents should also cause production of the records (also comparative chart) pertaining to the considerations given a

Contd...

N/S not filed.
21.5.09.

18.6.09
no N/S filed.

210
21/6/09
21/6/09
21/6/09

O.A.41/2009

Contd.
19.06.2009

22.6.09

Kanak Das

Send Cpis of this order to the Respondents and free Cpis to the Counsels of both parties

22/6/09

Copies of order dated 19/6/09 send to D/Sec. for issuing to respondents by post and free copies of this order issuing to counsel for both the parties.

23/6/09 D/No - 3635 to 3639 /bb/
Dt. 30.6-09

No W/S filed.

22.7.09

during 17th & 18th January 2008; when 611 candidates were stated to be considered as against 75 vacancies and the Applicant was placed at Sl. No.171 among the 611 candidates.

All those information and materials/records should be made available by the Respondents through Mr.M.U.Ahmed, learned Addl. Standing counsel by 23rd July, 2009; for which a duly authorised officer (who is well conversant with the matter) need appear to explain the records/information to this Tribunal.

Call this matter on 23.07.2009.

Send copies of this order to the Respondents and free copies of this order be handed over to the counsel appearing for both the parties.



(M.R.Mohanty)
Vice-Chairman

O.A. 41/2009

23.07.2009

Written statement is undertaken

to be undertaken to be filed in course of the day. Mr.N.Ahmed, learned counsel for the Applicant prays for time to file rejoinder.

Call this matter on 24.8.2009 awaiting rejoinder from the Applicant.

(M.K.Chaturvedi)
Member (A)

(M.R.Mohanty)
Vice-Chairman

23.7.09

N/S filed
by the Respondents.
Through Mr. M.H.
Ahmed, A.D.C.G.S.C.
23/8/09

/lm/

No rejoinder filed.

21.8.09

K.Das

Send copy of this
order to the Respondents.

26/8/09

Copies of order
dated 24/8/2009
send to D/Sec.
for issuing to
the respondents
by post.

Ce O/N-9960-9962
2/9/09. D/ = 3/9/09

2.9.09

Rejoinder filed
by the Applicant in
the court on 24.8.09.
Copy sent.

24/8/09

N/S and rejoinder
filed by the parties.

1.10.09

24.08.2009

This case relates to prayer for an employment on compassionate ground.

Written statement has already been filed without disclosing the vacancy position on date for consideration and number of the candidates for their consideration.

They have not disclosed what the position of the ^{Applicant in the list} ~~list~~ was, was prepared by them. By the next date, either the Respondents should give all details in a transparent ^{manner or} ~~and~~ produce the records for perusal of this Tribunal, pertaining to all efforts for consideration. Applicant has undertaken to file rejoinder in course of the day. The Respondents should also take instructions by the next date.

Send copies to Respondents
Call this matter on 05.10.2009.

(M.K.Chaturvedi)
Member(A)

(M.R.Mohanty)
Vice-Chairman

05.10.2009

In this case written statement and rejoinder have already been filed.

K. Das

Send copies of this order to the Respondents and free to the Counsel for both the parties.

[Signature]
6/10/09

By order dated 19.06.2009 and 24.08.2009, Respondents were directed to cause production/furnish details in a transparent manner. They have not done the same as yet.

In the aforesaid premises, send copies of this order dated 19.06.2009 and 24.08.2009 to the Respondents requiring them to file additional written statement (and details/supporting documents) by 20.11.2009; failing which adverse inference shall be drawn against the Respondents.

Call this matter on 20.11.2009 awaiting written statement etc. from the Respondents.

Send copies of this order to the Respondents, along with copies of this order dated 19.06.2009 and 24.08.2009. Free copies of this order be handed over to the counsel appearing for both the parties.

[Signature]
(M.R. Mohanty)
Vice-Chairman

List the matter for hearing on 18.12.2009.

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

Copies of order dt-5/10/09 sent along with order dated 19/6/09, 24/8/09 send to D/Sec. for issuing to the respondents by post.

Free copies of this order handed over to the L/Counsel for both the parties.

D/No-12519-12523 /bb/

dt. 11-11-2009

20.11.2009

19/10/09.

19.11.09

No Add. DS L.W. /bb/

The case is ready for hearing.

[Signature]
17.12.09

29.12.09

Reply to the
Rejoinder filed
by the Respondents.
Copy served.

29/12/09

18.12.2009

Proxy counsel for Respondent

that Mr. M. U. Ahmed, learned
Standing Counsel for Respondents is unable
to attend the court today due to his
bereavement in his family.

List the matter on 21.01.2010.

The case is ready
for hearing.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/PB/

20.1.2010

21.01.2010

For the reasons recorded
separately this O.A. stands allowed.

Received copy
Maya Devi /pb/
Applicant.
15/3/2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

17/3/2010

Judgment / Final order
dated 21/1/2010 prepared
and sent to the D/Section
for issuing the all the
subpoenas by post
vide NO 621 to 622
dated 18-3-2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Applications No. 41 of 2009

Date of Decision: 21 .01.2010

Sri Punu Sharma

..... Applicant/s

Mr. Adil Ahmed

..... Advocates for
the Applicant/s

- Versus -

U.O.I. & Ors.

..... Respondents

Mr. M.U. Ahmed, Addl. CGSC


..... Advocate for the
Respondents

CORAM:

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)
HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

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

Judgment delivered by


Member (J)/Member (A)

12

**CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:**

Original Application No.41 of 2009

Date of Decision: This, the 21st day of January 2010.

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)

Sri Punu Sharma
Son of Late Hari Prasad Sharma
Ex-Watchman
Office of the Officer Commanding
No.1, Adv. Base Stationary Depot
Narengi.

Permanent resident of
Village - Kochpara
P.O. - Satgaon
Dist- Kamrup, Assam
Pin - 781027.

...Applicant

By Advocate: Mr. Adil Ahmed

-Versus-

1. The Union of India
Represented by the Secretary
to Government of India
Ministry of Defence, South Block
New Delhi, Pin - 110011.
2. The Commander
Head Quarter, Army Ordnance Corps
Fort William, Kolkata
Pin - 700 021.
3. The Officer Commanding
No. 1 Adv. Base Stationary Depot
Narengi, C/O A.P.O.

...Respondents

By Advocate: Mr. M.U. Ahmed, Addl. CGSC.

ORDER (ORAL)MUKESH KUMAR GUPTA, JUDICIAL MEMBER:

In this second round of litigation, Sri Punu Sharma, challenges communication dated 4th February, 2008 as well as speaking order dated 14th March, 2008 (Annexure - 9 & Annexure - 10 respectively) rejecting his claim for appointment on compassionate basis.

2. The facts in a nutshell are Hari Prasad Sharma, Watchman in the office of the Officer Commanding, No. 1 Adv. Base Stationery Depot, Narengi, died in harness on 04.06.2000. Applicant being a dependent, applied for such a post on compassionate ground on 19.09.2000. He was considered for such claim. Vide communication dated 22.01.2002 he was conveyed that he was considered for employment in relaxation to normal rules on three occasions but he was not selected due to limited number of vacancies. Similar communication was made on 10th May, 2002. In such circumstances, he approached Hon'ble Gauhati High Court by way of filing Writ Petition (C) No. 2103 of 2005.

3. His claim was contested by the Respondents stating that he was considered for three times but he could not come within the zone of appointment and as such he could not be appointed. Hon'ble High Court disposed of said Writ Petition vide order dated 08.10.2007 noticing that the scheme formulated by Respondent's had also a specific provision for allotment of marks under certain head such as (a) Family Pension; (b) Terminal benefits; (c) Monthly Income of earning member (d) income from property; (d) Movable/Immovable Property; (e) No. of dependants; (f) No. of unmarried daughters; (g) Number of minor Children & (h) Left over Service.

4. Taking in totality, the marks so fixed and allotted to the candidates, their cases are considered on individual merit and the candidates getting higher marks are preferred first, considering the availability of vacant post.

5. On examination of the records provided by the Respondents, having considered for three occasions along with other candidates the Hon'ble High Court observed that his case was examined by Selection Board on 20-31 January, 2001 and he was awarded 45 marks and the candidate appointed had been awarded 64 marks. On second occasion, the matter was considered on 25.05.2001, wherein he was awarded 63 marks. Third consideration was made on 01.11.2001, wherein he was awarded 65 marks, in total.

6. The grievance of the applicant was that he ought to had been awarded 65 marks on the first occasion. Accepting said contention raised by the applicant & based on the records produced, the Hon'ble High Court concluded that on the third consideration he was awarded 65 marks, based on criteria set for such appointment which should have been awarded on first occasion itself, and taking note of the number of vacancies at the relevant time, he was entitled for 65 marks making him eligible for appointment as the person appointed on first occasion had secured 64 marks. Hon'ble High Court further observed that the authorities had committed error in the decision making process and his case was required to be considered afresh, accepting his marks as 65, he should be entitled to all consequential reliefs. The directions and observations made by Hon'ble High Court reads thus:

"9. From the counter affidavit the stand taken by the respondents it is found that the petitioner not having obtained higher marks than the other

appointed candidate, he could not be accommodated. From the record submitted by the department it is seen that the petitioner was not recommended on the first consideration for getting 45 marks. The petitioner as indicated above, was entitled, and in fact later on provided with 65 marks. Thus the marks obtained by the petitioner is higher than the criteria set for such appointment and taking note of the number of vacancies at the relevant time which is 64 marks, the petitioner was entitled for appointment.

10. The above discussion makes it clear that the authorities have committed error in the decision making process and as such the petitioner's case is required to be considered afresh accepting his marks as 65 to which he was found to be entitled under the scheme and guidelines provided for selection of candidates for appointment in Group - D posts under compassionate ground.

11. In that view of the matter, the case is remanded to the authorities to take such appropriate decision in accordance with law within the period of 2 (two) months from the date of receipt of a certified copy of this order."

(emphasis supplied)

7. In purported compliance of aforesaid direction, applicant's case was considered once again by the Selection Committee which considered as many as 611 candidates. Minutes of the said Committee, meeting of which was held on 17 and 18 January, 2008 was placed before this Tribunal, wherein applicant's name figure at serial No. 171 and he was allowed 65 marks. Thereafter, impugned orders were passed rejecting his claim.

8. The contentions raised by the Applicant is that the competent authority committed a procedural mistake in assessing him on first consideration, which has also been the explicit finding, so recorded by Hon'ble High Court which decision has attained finality. His case ought to have been reviewed as it was considered for the first time. In the peculiar facts and circumstances of the present case as observed by

Hon'ble High Court, the applicant was entitled to 65 marks, which should have been taken as if obtained by him on the very first occasion and, therefore, the entire action ought to have been reviewed. It was vehemently urged that such course of action has not been followed and therefore the speaking order dated 14th March 2008 as well as communication dated 4th February 2008 rejecting his claim being perverse in nature are liable to be declared null and void. It was emphasized that he cannot be made to be penalized by the mistake committed on the part of Respondents in not considering him appropriately.

9. Mr. Adil Ahmed, learned counsel for applicant further urged that as revealed by the minutes of Board Officers Meeting held on 17 and 18 January, 2008, he was considered along with as many as 611 candidates, which course of action was not justified. What ought to have been done was that the proceedings of first consideration should have been reviewed and he was not liable to be considered along with those who became eligible subsequently in the year 2008. The consideration made by the committee in its meeting held on 17 and 18 January 2008 was a farce and mere consideration and not fair and just consideration.

10. Contesting the claim laid by applicant and by filing reply, it was stated that applicant's case had been considered on 4 occasions. Normally a candidate is considered for 3 times. Basically the consideration made on 4 time was in transgression of Respondent's policy on the said subject which provides maximum consideration for three years. If certain peculiar illegalities were committed, the same will not give him any cause of action, emphasized Sri M.U. Ahmed, learned Addl. CGSC for Respondents. Allegations of malafide, arbitrariness and

illegality etc. were denied. Vide reply para 14, it was stated that he was considered on 4 occasions "giving due importance of Hon'ble High Court order even after time barred of the case after a gap of number of years, i.e. from 2000."

11. We have heard Mr. Adil Ahmed, learned counsel appearing for applicant and Mr. M.U. Ahmed, learned Addl. CGSC for Respondents.

12. We have heard this matter at certain length besides perusing the minutes of the Board of Selection Committee meeting held on 17 and 18 January 2008, which no doubt considered the applicant pursuant to directions of Hon'ble High Court. The question which arises for consideration is whether Hon'ble High Court's directions have been considered in its right perspective or this was "mere" consideration.

13. At the outset we may observe that the plea of time barred case cannot be raised when there is specific direction of Hon'ble High Court to reconsider his claims. On examination of matter with reference to records produced, we may note that matter was remanded to the respondents to take appropriate decision in accordance with law. Ultimately prior to it, Hon'ble High Court made a categorical finding that the authorities had committed error in the decision making process and as such his case was required to be considered afresh **"accepting his marks as 65 to which he was found to be entitled under the scheme and guidelines."** Such observations ex-facie indicates and reveals that basically his case ought to have been reviewed. The marks obtained by him namely 65 ought to have been recorded by Respondents as of 1st consideration, particularly when finding rendered on said aspect by Hon'ble High Court has attained finality. The Respondents were not expected to consider the applicant's claim along with 611 candidates, as

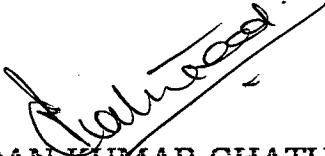
done by them, who became eligible much subsequently. It was merely required to review the first consideration taking his marks as 65 and thereafter expected to regulate the other decision, which in fact, has not been done. It is an undisputed fact that the person who had secured 64 marks on such first consideration, had been appointed. That being the case, applicant claimed ought to have been regulated by taking appropriate steps. It is well settled law that the law courts exist for the society and they have an obligation to meet the social aspirations of citizens since law courts must also respond to the needs of the people. Law courts will lose their efficacy if they cannot possibly respond to the need of the society - technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice. Currently judicial attitude has taken a shift from the old draconian concept and the traditional jurisprudential system-affectation of the people has been taken note of rather seriously and the judicial concern thus stands on a footing to provide expeditious relief to an individual when needed rather than taking recourse to the old conservative doctrine of the civil court's obligation to award damages [See (2001) 8 SCC 151 M.S. Grewal and Another Vs. Deep Chand Sood and Ors.]

14. We may note another disturbing feature of the case namely the contentions raised by Respondents that reconsidering him amounts to transgression of policy on the said subject. We may observe that Hon'ble High Court's Judgment rendered in W.P. (C) No. 2103/2005 dated 08.10.2007 has not been appealed by Union of India before any higher court and as such attained finality. In such circumstances the Respondents are restrained from making any observations on said

aspect. It is not expected from the State to use such harsh & derogatory language against court judgment. Having accepted the judgment, they are bound by it and directions issued therein have to be complied with with respect.

15. Taking a cumulative view of the matter, we hold that if the Respondents had undertaken review of first consideration, and as already observed by Hon'ble High Court, he was entitled to and in fact later provided 65 marks, he was entitled to appointment on compassionate basis. A person who was least meritorious and having scored only 64 marks was appointed. In such circumstances O.A. is allowed. Impugned orders dated 4th February 2008 as well as 14th March 2008 are quashed and set aside. Respondents are directed to appoint him within 4 (four) months by taking appropriate steps. Normally this Tribunal would not have issued a direction straight away to the Respondents to appoint him but keeping in view the peculiar facts of the present case as well as law noticed & narrated herein above, in order to do justice to the person concerned who have been made to run from pillar to post, issuing such directions become imperative.

Thus O.A. stands allowed in above terms. No costs.


(MADAN KUMAR CHATURVEDI)
Member (A)


(MUKESH KUMAR GUPTA)
Member (J)

/PB/

5 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 41 OF 2009.

Sri Punu Sharma

...Applicant

- Versus -

The Union of India & Others

...Respondents

SYNOPSIS

The Applicant is the eldest son of Hari Prasad Sharma who had served as a Watchman under the Respondent No.3. Hari Prasad Sharma expired on 04.06.2000 while he was in service leaving behind his wife, two sons and one daughter. The Applicant submitted a representation on 19.09.2000 before the Respondent No.3 requesting him to appoint him in any posts under the compassionate ground scheme. The Respondent No.3 on 22.01.2002 passed a cryptic order of rejection by enclosing a copy of order dated 10.01.2002 issued by the respondent No.2. Thereafter his mother Smt. Maya Devi submitted a representation on 14.03.2002 before the respondent No. 2 requesting him for consideration of her case for compassionate appointment as her son name was rejected by the Board. The Respondent No.3 on 10.05.2002 informed her that due to limited number of vacancies her son's name was not selected by the Board of Officers, therefore at this stage her application for employment in relaxation to normal rules does not arise. The applicant getting no other way approached before the Hon'ble Gauhati High Court by way of filing a Writ Petition No. 2103 of 2005. The Hon'ble High Court vide its details order on 08.10.2007 remanded the matter to the authorities to take appropriate decisions with law within a period of two months from the date of receipt of certified copy. The Writ Petition is allowed to the extend indicated above. Thereafter the applicant served a notice through his counsel to the respondent No.3 for the implementation of the order dated 08.10.2007. However, the Respondent No.3 vide its order dated 04.02.2008 and cryptic speaking order dated 14.03.2008 rejected the case of the Applicant for compassionate appointment.

Hence, this Original Application for seeking justice in this matter.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 41 OF 2009.

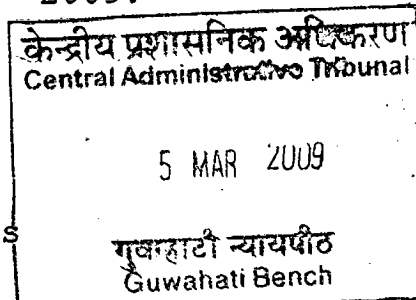
Sri Punu Sharma

...Applicant

- Versus -

The Union of India & Others

...Respondents



LIST OF DATES

04.06.2000 Para 4.2 Annexure 1	Hari Prasad Sharma expired due to kidney disease.
19.09.2000 Para 4.4 Annexure 2	The Applicant after death of his father submitted a representation for compassionate appointment before the Respondent No.3.
03.01.2001 Para 4.6 Annexure 3	The office of the respondent No.3 forwarded the application of the Applicant to the respondent No.2. 20/30-01-2001 - Consideration (defective) / 25.05-01
22.01.2002 Para 4.7 Annexure 4	The Respondent No. 3 intimated the Applicant that his representation for compassionate appointment has been rejected. 10.01.2002 - HQ Letter / Eastern Comm. letter
14.03.2002 Para 4.8 Annexure 6	The Applicant's mother Smt. Maya Devi submitted a representation before the Respondent No. 3 for consideration of her case for compassionate appointment.
10.05.2002 Para 4.9 Annexure 7	The Respondent No.3 informed the applicant's mother that due to limited number of vacancies her son's name was not selected.
08.10.2007 Para 4.10 Annexure 8 17/18.01.2008 - Consideration	The Hon'ble Gauhati High Court passed the judgment and order in the WPC No. 2103 of 2005.
04.02.2008 Para 4.12 Annexure 9	The Respondent No. 3 rejected the case of the Applicant for compassionate appointment.
14.03.2008 Para 4.14 Annexure 10	The Respondent No.3 informed the Applicant that it is not feasible to consider his case as per existing policy.

-Consideration
01.11.01-01
Consideration

Date- 4.03.2009

Filed by

Nuruddin Ahmad
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 41 OF 2009.

Sri Punu Sharma

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal Applicant

- Versus -

The Union of India & Others

गुवाहाटी न्यायपीठ
Guwahati Bench

...Respondents

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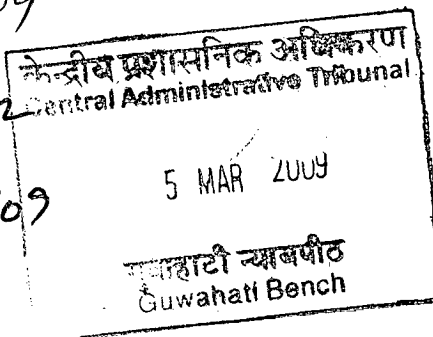
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Date- 4.03.2009

Filed by

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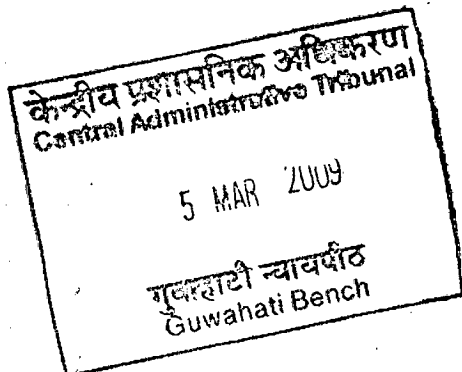


Nuruddin Ahmad
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(An Application Under Section 19 of the Administrative
Tribunals Act 1985)

ORIGINAL APPLICATION NO. 41 OF 2009.



BETWEEN

Sri Punu Sharma
Son of Late Hari Prasad
Sharma
Ex-Watchman, Office of the
Officer Commanding, No.1
Adv.Base Stationary Depot,
Narengi,
Permanent resident of
Village-Kochpara,
P.O.-Satgaon
District Kamrup, Assam
PIN-781027 ✓

...Applicant

-AND-

1. The Union of India
represented by the Secretary
to Government of India,
Ministry of Defence,
South Block
New Delhi
PIN Code-110011 ✓
2. The Commander,
Head Quarter, Army Ordinance
Crops
Fort William, Kolkata,
PIN Code-700021 ✓
3. The Officer Commanding,
NO.1 Adv. Base Stationary
Depot, Narengi,
C/O-99 A.P.O. ✓

...Respondents

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE:

This Application is made against the impugned
letter No.322/PS/CC/Adm(Civ) dated 04.02.2008 as

Punu Sharma

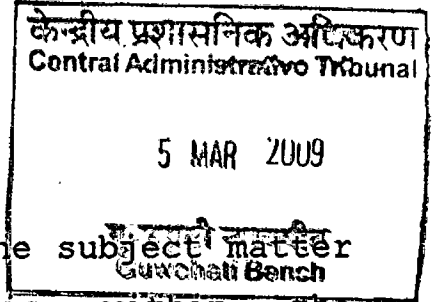
FILED BY

Sri Punu Sharma
Applicant
Through Nuruddin Ahmed
Advocate

well as Speaking Order dated 14.03.2008 issued by the Respondent No.3 whereby the appointment of the Applicant on compassionate ground in any Group 'D' post was rejected.

2. JURISDICTION OF THE TRIBUNAL:

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



3. LIMITATION:

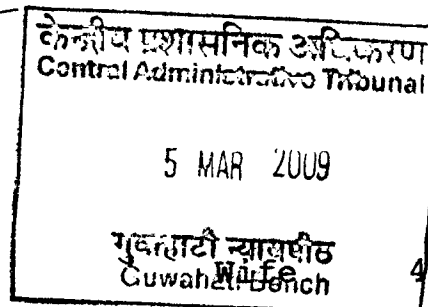
The Applicant further declares that the subject matter of the instant application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act 1985.

4. FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1] That your humble Applicant is a citizen of India and a permanent resident of Village-Kochpara P.O. Satgaon, Guwahati-27 in the District of Kamrup (Metro) Assam and as such he is entitled to all the rights and protection and privileges as guaranteed under the Constitution of India.

4.2] That your Applicant begs to state that he is the eldest son of Hari Prasad Sharma who had served as a Watchman under the office of the Officer Commanding, No.1 Adv. Base Stationary Depot, Narengi, C/O 99 APO i.e. the Respondent No. 3. Hari Prasad Sharma expired on 04.06.2000 due to kidney disease while he was in service. At the time of his death he left behind the following family members as mentioned below-



- | | | | |
|----|-------------------|----------|----------|
| 1. | Smt. Maya Devi | | 49 years |
| 2. | Sri Punu Sharma | Son | 26 years |
| | (Applicant) | | |
| 3. | Miss Puspa Devi | Daughter | 20 years |
| 4. | Sri Subham Sharma | Son | 14 years |

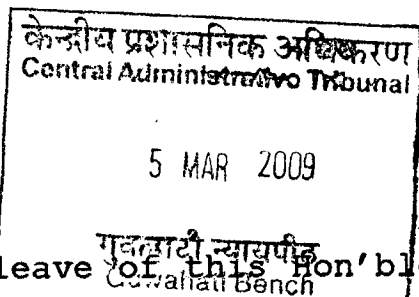
Photocopy of the death certificate of Hari Prasad Sharma is annexed herewith and marked as ANNEXURE-1.

4.3] That your Applicant begs to state that he has passed Class XII examination conducted by the Central Board of Secondary Education. Due to sudden death of his father he could not pursue his further study.

4.4] That your Applicant begs to state that after death of his father, he submitted a detailed representation on 19.09.2000 before the Respondent No.3 for consideration of his appointment on compassionate grounds.

Photocopy of the representation dated 19.09.2000 is annexed herewith and marked as ANNEXURE-2.

4.5] It is to be stated that there is a "Scheme for Compassionate Appointment, 1998" issued by the Department of Personnel and Training, Ministry of Personnel, P.G. and Pensions, Govt. of India. This Scheme of 1998 is a welfare and/or a social security scheme designed to help the family of the employee dying in harness and to save such family from the loss of income and the void created by the death of the earning member and also to save the family members from becoming destitute or from living in penury.



The Applicant craves the leave of this Hon'ble Tribunal to allow the Applicant to rely upon and to produce the copy of the said Scheme in the Court at the time of hearing of the case.

4.6] That your Applicant begs to state that the office of the respondent No.3 vide letter No. 316/02/PS/Adm(Civ) dated 03.01.2001 forwarded the application along with the details documents before the office of the respondent No.2.

Photoopy of the letter No. 316/02/PS/Adm(Civ) dated 03.01.2001 is annexed herewith and marked as Annexure 3.

4.7] That your Applicant begs to state that the office of the Respondent No.3 vide its letter No. 335/21/H.P./Adm(CIV) dated 22.01.2002 informed the Applicant that his case for compassionate appointment has been rejected. In the aforesaid rejection letter an extract copy of H.Q.Eastern Command (Ord) letter No.321914/2/B-35/8/OS-8C dated 10.01.2002 was also enclosed for information.

It is to be stated that in the letter dated 10.01.2002 which was issued by the office of the respondent No.2 did not specified any reason for rejection of Applicant's case for compassionate appointment. In the aforesaid letter it is simply quoted that "the cases which are more than one year old and the cases which have been considered three times as follows, are returned herewith for your necessary action and information of the individuals bringing out the reasons for their non selection including a very limited number of vacancies and latest orders on the subject.

5 MAR 2009

गुवाहाटी न्यायपीठ
of Guwahati Bench

Photocopy

letter

No.335/21/H.P./Adm(CIV)

dated

22.01.2002 alongwith the letter dated

10.01.2002 are annexed herewith and

marked as ANNEXURE-4 and 5.

4.8] That your Applicant begs to state that his mother Smt. Maya Devi submitted a representation on 14.03.2002 before the Respondent No.2. stating that she is willing to do any civil job under the respondents in place of her son whose name has been rejected by the Board of Officers.

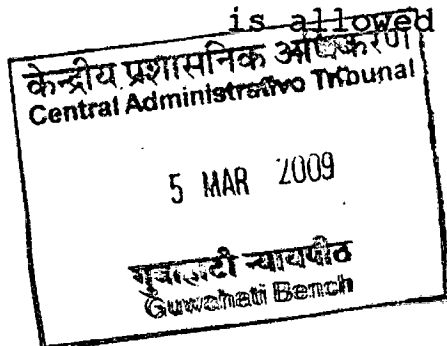
Photocopy of the representation dated 14.03.2002 is annexed herewith and marked as ANNEXURE-6.

4.9] That your Applicant begs to state that the office of the Respondent No.3 vide its letter No.335/21/HPs/Adm(Civ) dated 10.05.2002 informed his mother that due to limited number of vacancies her son's name was not selected by the Board of Officers and at this stage her application for employment in relaxation to normal rules does not arise. Lastly it is also stated that her case is finally closed for employment in relaxation to normal rules since more than one year has elapsed since the expiry of her husband.

Photocopy of the letter No.335/21/HPs/Adm(Civ) dated 10.05.2002 is annexed herewith and marked as ANNEXURE-7.

4.10] That your Applicant begs to state that after rejection of his and also his mother's candidature for compassionate appointment respectively by the Respondents, your Applicant getting no other way approached before the Hon'ble Gauhati High Court by way of filing Writ Petition (Civil) No.2103 of 2005. The Hon'ble Gauhati High Court finally heard

the matter on 08.10.2007 and was pleased to remand back the matter to the authorities to take such appropriate decision in accordance with law within the period of two months from the date of receipt of certified copy of the order. The Writ Petition is allowed to the extend indicated above.



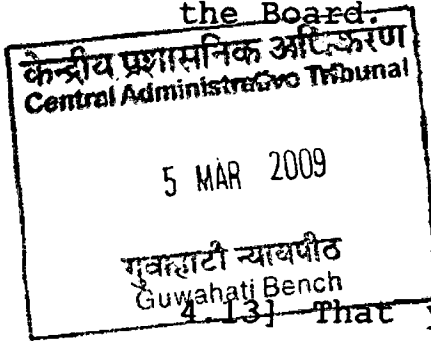
Photocopy of the Judgment and Order dated 08.10.2007 passed by the Hon'ble High Court is annexed herewith and marked as ANNEXURE-8.

4.11] That your Applicant begs to state that after obtaining the certified copy of the order from the Hon'ble High Court he served a notice through his learned counsel appeared for him in the above said W.P.(C)No. 2103 of 2005 to the Respondent No.3 for the implementation of the judgment and order dated 08.10.2007 passed in W.P.(C)No.2103 of 2005 by the Hon'ble Court.

4.12] That your Applicant begs to state that while he was anticipating a favourable consideration of his candidature for compassionate appointment from the Respondents, he was shocked to receipt the rejection letter vide No.322/PS/CC/Adm(Civ) dated 04.02.2008 passed by the Respondent No.3. The Respondent No.3 without due application of mind has rejected the case of the Applicant for compassionate appointment in a most mechanical and whimsical manner.

In the aforesaid rejection order it has been stated that as per the Hon'ble Court's direction his name was considered by the Annual Board held on 17 and 18 January 2008. But due to limited number of vacancies available for compassionate appointments and his comparative merit, his case has not been

recommended for appointment in Group 'D' post by the Board.



Photocopy of the letter No.322/PS/CC/Adm(Civ) dated 04.02.2008 is annexed herewith and marked as ANNEXURE-9.

4.13] That your Applicant begs to state that the Respondent NO.3 in the rejection letter dated 04.02.2008 intentionally have not given the details about the number of vacancies on compassionate ground quota under them since the year 2000 to till date. Moreover, the Respondents have not given any details and the name of persons who were appointed on compassionate ground by the Respondents. Beside these the Respondents also have not given the details of comparative merit list and marks of the other candidates who have selected having higher merit points than the Applicant.

4.14] That your Applicant begs to state that the Respondent No.3 again vide its Speaking Order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 informed the Applicant that his application as per the order of Hon'ble Court, has been considered for the fourth time by the Board assembled on 17 and 18 January 2008 at Army HQ alongwith other candidates on the basis of criteria laid down to determine relative hardship and limited number of vacancies available. Therefore, it is not feasible to consider his case again as per existing policy.

Photocopy of the Speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 is annexed herewith and marked as ANNEXURE-10.

4.15] That your Applicant begs to state and submits after the death of his father, he along with his

family members are suffering from acute financial hardship till now. The only source of income of their entire family is the monthly family pension which is not sufficient to maintain the whole family including expenditure of education for his younger brother and sister. They have no other sources of income like agricultural, business etc.

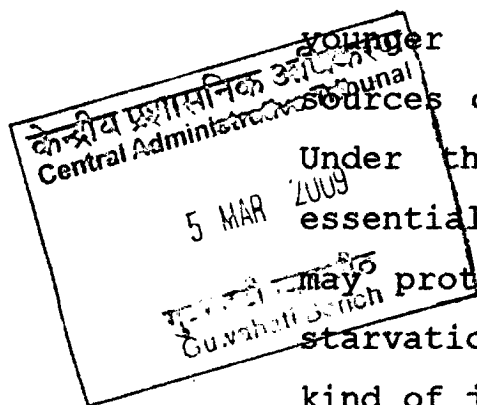
Under the circumstances, it is therefore highly essential for the Applicant to get a job so that he may protect himself and his family members from starvation. The Applicant is willing to accept any kind of job under the Respondents.

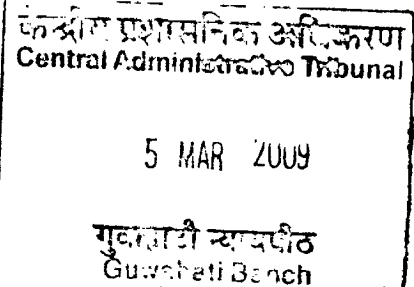
4.16] That your Applicant begs to state that his father late Hari Prasad Sharma rendered his sincere and unblemished service till his death under the Respondents.

4.17] That your Applicant begs to state that he is suffering from frustration and mental depression due to rejection of his prayer for compassionate appointment in any Group 'D' post on compassionate ground by the Respondents in spite of the fact that his case is genuine and needs sympathetic consideration. There is not a single person in the family of the Applicant who has a Government or Semi Government job.

4.18] That your Applicant begs to state that the Respondents have violated the fundamental rights guaranteed under the Constitution of India by non-appointing your Applicant on compassionate ground in any Group 'D' posts.

4.19] That your Applicant begs to state that he is running from pillar to post for his appointment on compassionate ground.





4.20] That the Applicant humbly submits that the Applicant has the right to live and right to be considered for compassionate appointment for which he duly applied in due time but the same has been taken away by the Respondents in not considering his case for compassionate appointment. Therefore, Respondents have violated the rights of the Applicant enshrined under the Constitution of India. Hence, the action of the Respondents is illegal, arbitrary, malafide and they have adopted colourable exercise of power while rejecting the case of the Applicant for compassionate appointment. As such, it is a fit case for immediate interference by this Hon'ble Tribunal.

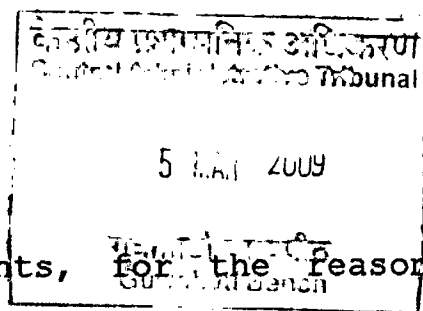
4.21] That your Applicant submits that his case should be considered for immediate appointment in any Group-D post under the Respondents.

4.22] That your Applicant demanded justice from the Respondents which has been denied to him.

4.23] That this application has been made bonafide and for the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1] For that, due to the above reasons narrated above in details the action of the Respondents is prima facie illegal, malafide, arbitrary and without jurisdiction. Hence the impugned rejection No.322/PS/CC/Adm(Civ) dated 04.02.2008 and also the impugned Speaking Order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 is liable to be set aside and quashed.



5.2] For that, the Respondents, for the reasons best known to them, in their impugned order vide No.322/PS/CC/Adm(Civ) dated 04.02.2008 and speaking order 14.03.2008 have not mentioned the total number of vacancies available to them year wise against the 5% quota and the Respondents intentionally did not disclosed the comparative list of the candidates who were considered in the panel for appointment under the compassionate grounds. It appears that the Respondents have suppressed the real facts from the Applicant. As such, the impugned rejections order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the Speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 is liable to be set aside and quashed.

5.3] For that, while rejecting the case of the Applicant for compassionate appointment on the alleged ground of absence of vacancies, the Respondents have not whispered anything how many persons were appointed on compassionate ground year wise since the Applicant submitted his application for compassionate appointment. As a modal employer it was incumbent on the part of the Respondents to specify all these details. Hence the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 is passed with an oblique motive and therefore, the same are liable to be set aside and quashed.

5.4] For that as per direction of the Hon'ble Gauhati High Court the respondents ought to consider the applicant case a fresh by accepting his marks as 65 to which he was found to be entitled under the scheme but in the speaking order

5 MAR 2009

dated 14.03.2008 the respondents are totally silent about the other candidates who got more than 65 marks and the respondents intentionally did not disclose the marks chart obtained by the other candidates who were qualified for appointment under the compassionate ground scheme. As such the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 are liable to be set aside and quashed.

5.5] For that, the Respondents have rejected the Applicant's case for compassionate appointment in a whimsical and most mechanical manner. Therefore, the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 are violative of principles of natural justice and administrative fair play and hence liable to be set aside and quashed.

5.6] For that, the Applicant has a right to be considered for compassionate appointment for which he had duly applied in prescribed form. The Respondents have snatched away his right for consideration for appointment on compassionate ground in not considering his case for compassionate appointment. Therefore, Respondents have violated the rights of the Applicant guaranteed under Articles 14, 16 & 21 of the Constitution of India.

5.7] For that, it is not just and fair to deprive the Applicant from getting appointment on compassionate ground by the Respondents. Hence the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order

Purni Sharma

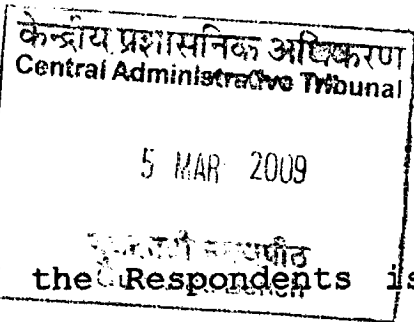
14.03.2008

No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 are liable to be set aside and quashed.

5.8] For that, the Central Government being a model employer cannot be allowed to take lackadaisical attitude to the Applicant. Hence the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 are liable to be set aside and quashed.

5.9] For that, the father of the Applicant till his death rendered his unblemished service under the Respondents and his death left the family in penury. As such, the Respondents are duty bound to consider the genuine and legitimate claim of the Applicant for compassionate appointment with utmost sympathy saving the family from starvation. As such, the impugned order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 rejecting the prayer of the Applicant for compassionate appointment are liable to be set aside and quashed.

5.10] For that, the apparent rejection of the case of the Applicant for compassionate appointment by the Respondents is discriminatory and a negligent act which cannot be sustained in the eyes of law. Hence the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 are liable to be set aside and quashed.



5.11] For that, the action of the Respondents is not maintainable in the eye of Law as well as in fact. Hence the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 are liable to be set aside and quashed.

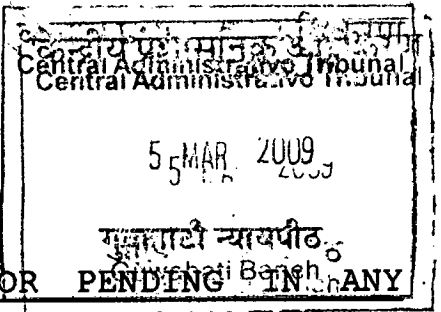
5.12] For that, the Respondents have violated the terms and conditions of their own circulars and guidelines conferring legal rights on the Applicant for appointment on compassionate grounds for which they are duty bound to act upon. As such, the impugned rejection order No.322/PS/CC/Adm(Civ) dated 04.02.2008 and the speaking order No.316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No.3 are liable to be set aside and quashed.

5.13] For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law and the Applicant is entitled to be appointed on compassionate ground under the Scheme.

The applicant craves leaves of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

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



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

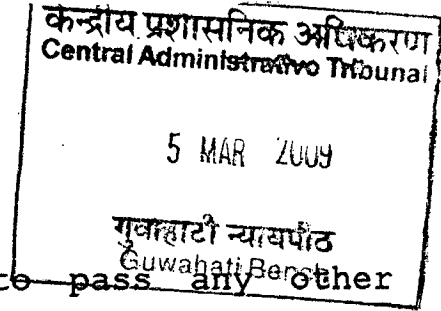
That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances narrated above the Applicant most respectfully prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notices to the respondents as to why the relief or relieves sought for by the applicant may not be granted and after hearing both the parties may be pleased to direct the respondents to give the following relief or relieves:

8.1] That the Hon'ble Tribunal may be pleased to set aside and quashed the impugned rejection order No. 322/PS/CC/Adm(Civ) dated 04.02.2008 and speaking order No. 316/2/PS/CC/Adm(Civ) dated 14.03.2008 issued by the Office of the Respondent No. 3.

8.2] To direct the respondents to consider the case of the Applicant afresh for appointment on compassionate ground under the Scheme issued by the Government of India.



8.3] may be pleased to ~~pass any other~~ appropriate relieves.

8.4] To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:

As a interim measure the applicant most respectfully prays before this Hon'ble Tribunal that Your Lordships may be pleased to direct the respondents to engage the applicant temporarily in any Group 'D' post or one post may be kept reserved for the Applicant till disposal of this instant original Application.

10. Application is filed through Advocate.

11. Particulars of I.P.O.:

I.P.O. No. :- 396 391783
Date of Issue :- 7.02.2009
Issued from :- Guwahati G.P.O.
Payable at :- Guwahati

12. LIST OF ENCLOSURES:

As stated above.

Verification . . .

केन्द्रीय प्रशासनिक अपीकरण
Central Administrative Tribunal

5 MAR 2009

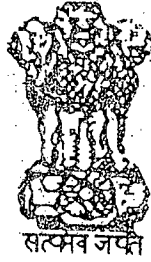
गुवाहाटी न्यायपीठ
Guwahati Bench

V E R I F I C A T I O N

I, Sri Punu Sharma, aged about 26 years, Son of Late Hari Prasad Sharma, Resident of Satgaon, Kochpara, Post Office-Satgaon, Guwahati-781071, do hereby solemnly verify that the statements made in paragraph nos 4.1, 4.2 (Partly), 4.3 to 4.5, 4.8, 4.11, 4.13 are true to my knowledge, those made in paragraph nos. 4.2 (Partly), 4.6, 4.7, 4.9, 4.10, 4.12, 4.14 are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

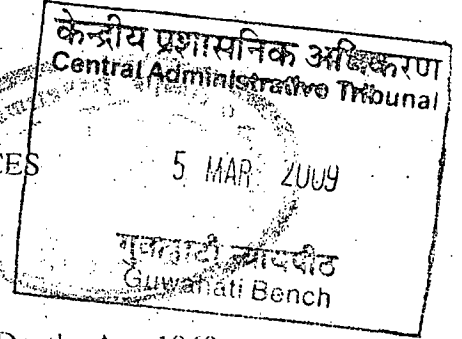
And I sign this verification on this the 4th day of March 2009 at Guwahati.

Punu Sharma
DECLARENT

Form No. 6
ফর্ম নং - ৬Sl. No. 0035146
ক্রমিক নং

846

GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেবা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্ৰমাণ পত্ৰ)



ISSUED UNDER SECTION 12/17 of the Registration of Births and Deaths Act, 1969.
(জন্ম আৰু মৃত্যুৰ পঞ্জীয়ন আইন ১৯৬৯ ৰ ১২/১৭ অংশত লিপিবদ্ধ)

This is to Certify that the following information has been taken from the original record of Death which is in the register for the month of June 2000
Registration unit of Barpeta of District Barpeta of the State of Assam.

ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য অসম ৰাজ্যৰ Barpeta জিলাৰ Barpeta পৌৰসভাৰ Barpeta মৌজাৰ অন্তৰ্গত Barpeta পঞ্জীয়ন গোটেৰ পঞ্জীৰ মূল অভিলেখৰ পৰা সংগৃহীত কৰা হৈছে।

Name/নাম : HARI PRASAD SHARMA
Sex/লিঙ্গ : Male S/O HOM NATH SHARMA
Date of Death/মৃত্যুৰ তাৰিখ : 4th June 2000 (two thousand)
Place of Death/মৃত্যুৰ স্থান : Guwahati
Registration No./পঞ্জীয়ন নং : 1637
Date of Registration/পঞ্জীয়নৰ তাৰিখ : 20/6/2000 PA - Satgaon, Guwahati

Signature of issuing authority/জাৰি কৰা কৰ্তৃপক্ষৰ চহী
Designation/পদবী
Date/তাৰিখ 20/6/2000

Stamp Sig. of Chief Registrar/মুখ্য পঞ্জীয়কৰ চহীৰ ষ্টাম্প

No disclosure shall be made of particulars regarding the cause of death as entered in the Register. See proviso to Section 17 (I)

ATTESTED
(Signature)
ADVOCATE

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

To
The Officer Commanding
No 1 Adv Base Stationery Depot
C/O 99 APO

Sub:- Prayer for employment on compassionate ground
IN relaxation to normal rules

Sir,

With due respect I beg to state the following few lines for your kind consideration and favourable action please:-

That I am the son of late Hari Prasad Sharma who was the fourth grade employee of No 1 Adv Base Stationery depot and he expired on 04-06-2000 during the tenure of his service.

That on the death of my father he left 4(four) children and my widow mother. We have been facing grave economic hardship as our sole bread earner in the family was our father. None of our family members is employed any where. My elder sister (Married) and also my mother are not willing to do any Govt job.

That we are very poor having no source of income for livelihood except the meagre pension to be paid to my mother.

That my mother also approached your department for giving job to me on compassionate ground.

I therefore, request to your kind honour to appoint me in any Class IV grade post on compassionate ground. In this act of kindness, I shall ever pray.

Yours faithfully,

Dated: 19 Sep 2000.

Punu Sharma
(Shri Punu Sharma)
S/O late Hari Prasad Sharma
Ex-Chowkider of No 1 Adv
Base Stationery Depot
C/O 99 APO

Counter signed
(Bharat Chevur)

ATTESTED
ADVOCATE

REGISTERED POST

Mo 1 Adv Base Stationery Depot
C/O 99 APO

316/02/PS/Adm(Civ)

03 Jan 2001

MG AOC
HQ Eastern Command
Fort William, Calcutta- 21केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

5 MAR 2009

मुख्य न्यायाधीश
Chief JusticeEMPLOYMENT ON COMPASSIONATE GROUND IN
RELAXATION TO NORMAL RULES1. Refer to HQ Eastern Command letter No. 321918/2/1899/
OS-SC dated 19 Dec 2000.2. Application in respect of Shri Punu Sharma, son of
late HP Sharma seeking employment in relaxation to normal
rules is forwarded herewith along with the following
connected documents for further necessary action:-(a) Application as per Proforma (Part 'A' 'B')
of Army HQ L/No. 93659/Policy/OS-SC(1) dated
30 Jul 99.(b) Eligibility certificate duly signed by OC.(c) Attested copy of educational qualification
certificated(d) Certificate of date of Birth along with an
affidavit executed by the applicant through the
court that the date of birth will not be changed
at a later stage.(e) Affidavit from Court as proof for movable and
immovable properties.(f) Photocopy (Attested) of birth certificate in
support of age of minor children.(g) Request from the Widow/mother for giving
employment of her son.(h) No objection certificate from the married
daughter.(j) Complete service Book of the deceased Govt servant
showing the details of Pension, DCR gratuity, leave
encashment and CGEIS. GP fund balance not yet paid/
release from JCDA(F) Meerut.(Sharat Chevur)
Major
Officer Commanding

Copy to:-

Shri Punu Sharma
S/O Ex- Chowkider
Late HP Sharma. Satgaon

ATTESTED

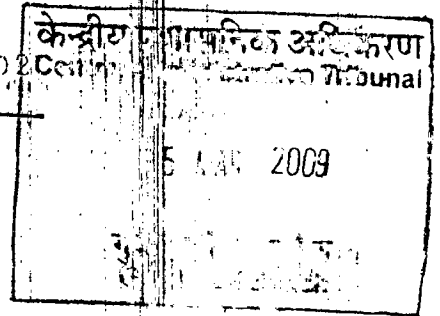
ADVOCATE

-19-

No 1 Adv Base Stationery Depot
C/O 99 APO

335/21/HP/Adm(Civ)

21 Jan 2002



Shri Punu Sharma
S/O Late HP Sharma
Vill:- Satgaon (Kochpara)
PO: - Satgaon, Guwahati- 71

EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. Refer to your application dt 19 Sep 2000 for employment in relaxation to normal rules.
2. As per latest existing order of the Govt., your case for employment in relaxation to normal rules have been considered three times and not selected for employment. An extract copy of HQ Eastern Command (Ord) letter No. 321914/2/B-35/8/OS-3C dt 10 Jan 2002 is enclosed for your information.

(Sharat Chevur)
Major
Officer Commanding

Copy to:-

MG AOC
HQ Eastern Command (Ord)
Fort William, Calcutta- 21

- for information with
ref to letter No and date
mentioned above.

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(2)

ADVOCATE

C O P Y

Tele: 222-2787

Headquarters
Eastern Command (Ord)
Fort William
Kolkata - 700021

321914/2/B-35/8/OS-8C

10 Jan 2002

केंद्रीय प्रशासनिक आयोग Central Administrative Tribunal
5 JAN 2002
सचिव

1 Adv Base Sty Depot

EMPLOYMENT IN RELAXATION TO NORMAL RULES

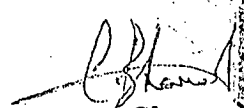
1. Apropos of this HQ letter No. 321914/2/B-35/X/OS-8C at 10 Jan 2002, the cases which are more than one year old and the cases which have been considered three times as follows, are returned herewith for your necessary action and information of the individuals bringing out the reasons for their non selection including a very limited number of vacancies and latest orders on the subject.

(a) Shri Punu Sharma
S/O Late watchman
MP Sharma

Enclo: As above.

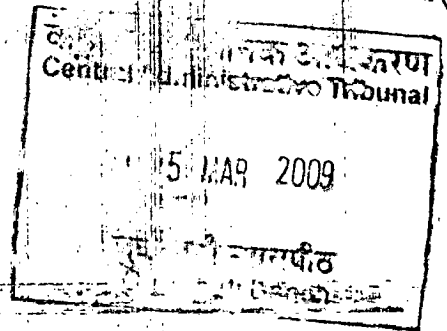
Sd/- x x x
(Ramesh Bakshi)
Lt COL
DADOS (Adm)
for MG AOC

C O P Y


(Bharat Chevur)
Major
Officer Commanding

ATTESTED
②
ADVOCATE

- 21 -



From:- Smti Maya Devi,
W/o Late H.P. Sharma, Watchman,
Vill- Satgaon (Koch Para),
P.O.- Udayan Vihar, Guwahati,
Dist- Kamrup, Assam.

Date.14/3/2002

To,

MG AOC
HQ Eastern Command (Ord)
Fort William, Calcutta- 21.

Sub:- EMPLOYMENT IN RELAXATION TO NORMAL RULES.

Sir,

With reference to your Headquarters letter Nos. 321914/2/B-31/141/OS-8C dated 21-3-2001 and 321914/2/B-35/8/OS-8C dated 10-01-2002 addressed to No. 1 Adv Base Depot and No. 1 Adv Base Sty. Depot letter No. 335/21/HP/Adm(Civ) dated 22-1-2002.

That sir, the case for employment of my son Sri Punu Sharma has been rejected by the Board of Officer as intimated vide letters quoted above.

Sir, I have look after my three school going children and I have no any source of income except my little pension. After expiry of my husband I become helpless. It is not possible for me to carry out my life with my three children with my little pension. My husband was expired with kidney disease with Chronic Renal Failure on 4 June 2000. Death certificate photo copy attached herewith.

I therefore request your honour kindly give me a civil job in your department in place of my son whose name was rejected by the Board of officer. I am voluntarily willing for employment in your Department in Guwahati. My name may kindly be included in the list so that I can get a job in your deptt. For your act of kindness I shall remain ever grateful to you sir.

Yours faithfully,
Sd/- Illegible
Smti Maya Devi.
W/o Late H.P. Sharma.

ATTESTED

ADVOCATE

Copy to: No.1 Adv Base Stationary Depot for information
and C/o 99 APO necessary action please.

No 1 Adv Base Stationery Depot
C/O 99 APO

335/21/HPS/Adm(Civ)

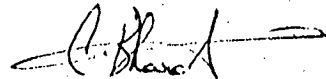
10 May 2002

Mrs Maya Devi
W/O of Late HP Sharma
Vill: Satgaon, PO: Udayan Vihar
Guwahati- 71, Kamrup(Assam)

<p>केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal</p> <p>5 MAR 2002</p> <p>पुनर्निर्देशित Branch</p>
--

EMPLOYMENT IN RELAXATION TO NORMAL RULES.

1. Refer to your application dated 14 Mar 2002 and reminder dated 15 Apr 2002 addressed to MG AOC, HQ Eastern Command and copy to this depot.
2. This is for your information that the application for employment in relaxation to normal rules of your son Shri Punu Sharma had been considered three times by the Board of Officers and not selected for employment due to limited number of vacancies. As per latest orders only one dependent of the deceased may apply for employment in relaxation to normal rules. Accordingly, your son's application was considered thrice and not selected for the above mentioned reasons. Hence the question of consideration of your application for employment in relaxation to normal rules at this stage does not arise.
3. Further your case is finally closed for employment in relaxation to normal rules since more than one year has elapsed since the expiry of your husband. You are advised not to make any further correspondence either with HQ Eastern Command Kolkata or this depot in this regard.


(Dharat Chever)
Major
Officer Commanding


Copy to:-

MG AOC
HQ Eastern Command(Ord)
Fort William, Kolkata- 21 - for information with ref
letter No. 321914/2/77/OS-8C
dated 29 Apr 2002-

Copy to
for info

for info

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ADVOCATE

मिति र दिनांक Date of application for the copy.	प्रमाण और प्रतिलिपि की संख्या एवं मिति की तारीख Date filed for multiplying the requisite number of stamps and folios.	मिति र दिनांक Date of delivery of the requisite stamps and folios.	मिति, अर्थात् प्रतिलिपि प्रतिलिपि तैयार की Date on which the copy was ready for delivery.	अर्थात् प्रतिलिपि प्रतिलिपि मिति Date of making over the copy to the applicant.
16/11/07	16/11/07	16/11/07	30/11/07	30/11/07

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND,
MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND
ARUNACHAL PRADESH)**

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 MAR 2009
गुवाहाटी बेंच
Guwahati Bench

W.P.(C) No. 2103/2005

Sri Punu Sharma
Son of Hari Prasad Sharma,
(Ex-employee of No. 1 Adv. Base
Stationery Depot, Narengi),
R/O Cochpara, P.O. - Satgaon,
District - Kamrup, Assam.

.... Petitioner

-VS-

1. The Union of India represented by Secretary, Ministry of Defence, Government of India, New Delhi.
2. Commander,
H.Q. Army, Ordnance Corps.,
Eastern Command (ORD)
Fort William, Kolkata - 7800021.
3. Officer Commanding No. 1 Adv. Base
Stationery Depot, C/o 99 A.P.O.

... Respondents

PRESENT

THE HON'BLE MR. JUSTICE H. N. SARMA

For the Petitioner

: Mr. S.Bhattacharya
Advocate

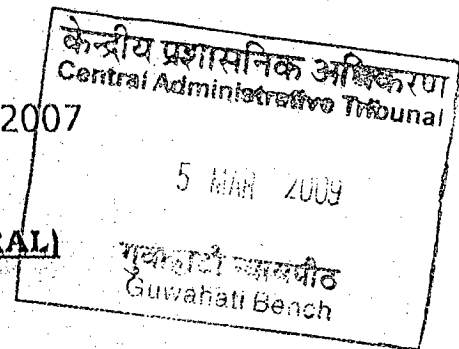
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For the Respondents : Mr. D.K. Dey
C.G.S.C.

Date of Hearing : 8.10.2007

Date of Judgment & Order : 8.10.2007

JUDGMENT AND ORDER (ORAL)



1. The grievance raised in this writ petition is the commission of error in considering the claim of the petitioner for appointment on compassionate ground under the respondent office.
2. The father of the petitioner who was serving as watchman under No. 1 Adv. Base Stationery Depot (ABSD for short) Narengi, Assam.
3. The father of the petitioner Hari Prasad Sharma died in harness on 4-6-2000. There is no scheme for appointment on compassionate ground to the dependent members of the family of the deceased who died in harness on 4-6-2000. The said scheme is titled as "Compassionate Appointments of Son/Daughter/near relative of Deceased Government Servants -- Consolidated Instructions." In terms of the said claim the petitioner having passed H.S S.L.C., was duly qualified for appointment in a Group 'D' Post under the respondent authorities applied for such a post on 19-9-2000. In order to select a person for appointment on compassionate ground, which is in deviation from normal rules of appointment, Ministry of Defence has also fixed certain

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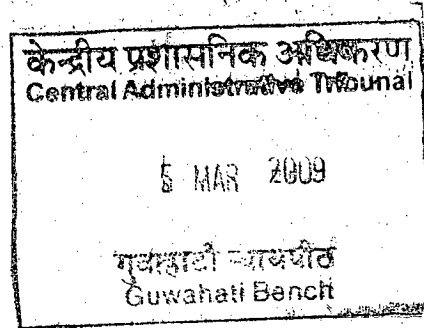
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

criteria as available in Annexure- 9 of the Affidavit- In- Opposition. The petitioner was communicated vide order dated 22-1-2002 that his case for employment in relaxation to normal rules was considered for three occasions, but he was not selected due to limited number of vacancies. Similar Communication dated 10-5-2002 was made to the petitioner by the Commanding Officer, ABSD, 99 APO, and vide Communication dated 22-2-2002 sent from the Headquarters Eastern Command (Ord), Fort William, Calcutta -21. The claim of the petitioner is that his case was illegally left out and person with lesser marks than him, as per criteria fixed, having been offered such appointment, the petitioner is also entitled for such appointment and he has been treated with discrimination.

4. The respondent authorities contesting the writ petition has filed a joint counter. It is the case of the respondents that the petitioner's case for employment in relaxation to normal rules have been considered three times, but he could not come within the zone of appointment and as such he could not be appointed.

5. Admittedly, the petitioner's claims for appointment is in deviation of normal rules by way of compassionate appointment. Such scheme is implemented by the authorities to provide employment to Sons/Daughters/near relatives of a government servant who has been working for sometime in the department and is a known person to the department. Selection for such appointment is regulated and guided by the scheme referred to above. There is also a specific provision for

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allotment of marks under certain gradings on certain fixed criteria. Such marks are provided in considering the candidature of an applicant on points such as – a) Family Pension ; b) Terminal Benefits ; c) Monthly Income of earning member(s) and income from property ; d) Movable/Immovable Property ; e) No. of dependants ; f) No. of unmarried daughters ; g) Number of minor Children ; h) Left over service.

Taking In totality the marks so fixed and allotted to the candidates their cases are considered on individual merit and the candidates getting higher marks are preferred first, considering the availability of vacant post.

6. The respondent authorities have placed before the court such consideration sheet of the petitioner on 3 occasions along with other candidates, for appointment on compassionate ground in Group D post. The first consideration was made by the Selection Board on 20 - 31 January, 2001. In that selection the petitioner was awarded 45 marks and the candidate just above him was awarded 64 marks. On second occasion the matter was considered on 25-5-2001 wherein the petitioner was awarded 63 marks. The third consideration was made on 1-11-2001 wherein the petitioner was awarded 65 marks, In total.

7. From the records produced by the learned counsel for the respondents It is seen that on first consideration wherein the petitioner was allotted 45 marks, the selection authority appears to have deviated from the procedure for awarding marks in terms of the existing guidelines and all the

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points that are mentioned in the guidelines have not been provided with to him. However subsequently, the marks allotted to the petitioner rose from 63 and 65 respectively. It is not understood as to how the marks fixed and the same facts which are not variable in nature could change from time to time.

8. It submitted that the petitioner is entitled to get 65 marks by applying the methodology as fixed under the guidelines for consideration of such cases by the authority themselves.

9. From the counter affidavit the stand taken by the respondents it is found that the petitioner not having obtained higher marks than the other appointed candidate, he could not be accommodated. From the record submitted by the department it is seen that the petitioner was not recommended on the first consideration for getting 45 marks. The petitioner as indicated above, was entitled, and in fact later on provided with 65 marks. Thus the marks obtained by the petitioner is higher than the criteria set for such appointment and taking note of the number of vacancies at the relevant time which is 64 marks, the petitioner was entitled for appointment.

10. The above discussion makes it clear that the authorities have committed error in the decision making process and as such the petitioner's case is required to be considered afresh accepting his marks as 65 to which he was found to be entitled under the scheme and guidelines provided

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 MAR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

for selection of candidates for appointment in Group- D posts under compassionate ground.

11. In that view of the matter, the case is remanded to the authorities to take such appropriate decision in accordance with law within the period of 2(two) months from the date of receipt of a certified copy of this order.

The writ petition is allowed to the extent indicated above.

A

Srl- H. N. Sarma
Judge

P. No. 85495,
Dtd. 16-10-07

CERTIFIED TO BE TRUE
Neelam Palwal
Date 30/10/07
Superintendent (Copy) Secretary
Guwahati High Court
NOTED U/S 76, Act 1. 1971

30/10/07

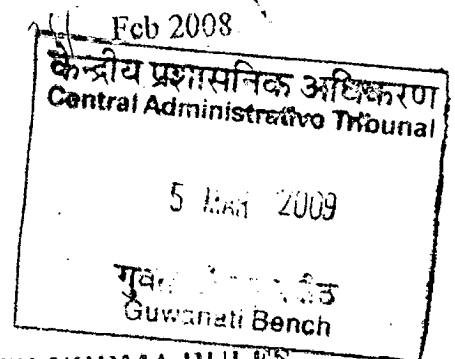
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(h)
ADVOCATE

No 1 Adv Base Sty Depot
PIN - 909601
C/o 99 APO.

327/PS/CC/Adm (Civ)

To

✓ Shri Punu Sharma
S/o Late HP Sharma
Vill : Satgaon, (Kochpara)
PO : Satgaon, Guwahati 27



EMPLOYMENT IN RELAXATION TO NORMA RULES

This is for your information that as per Hon'ble Guwahati High Court order dt 08 Oct 2007 your name has been considered by the Annual Board held on 17 and 18 Jan 2008. But due to limited number of vacancies available for compassionate appointment and your comparative merit, your case has not been recommended for appointment in Group 'D' post by the board.

(Signature)
(Lokesh Sharma)
Lt Col
Officer Commanding

① How many vacancies were there for Comp. Appt.?
② What were the merits shown by the candidates, who secured employment?

Present - O.C.
Lt. Col. Sunil Kumar
A.V.

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REGISTERED POST/AD

No 1 Advance Base Stationery Depot

Code-909601

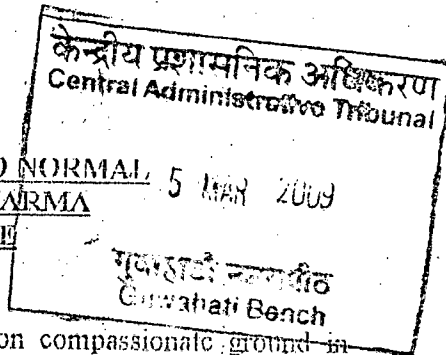
C/ 99 APO

NO : 316/2/PS/CC/Adm(Civ)

14

Mar 2008

Shri Punu Sharma
S/O Late HP Sharma
Vill-Satgaon(Kochpara)
P.O-Satgaon, Ghy-27



SPEAKING ORDER : EMPLOYMENT IN RELAXATION TO NORMAL
RULES, W/P NO : 2103/2005 FILED BY SHRI PUNU SHARMA
S/O LATE HP SHARMA OF NO 1 ADVANCE BASE
STATIONERY DEPOT, C/O 99 APO

1. Reference your application dated 13 Sep 2000 regarding employment on compassionate ground in relaxation to normal rules and court case thereof.
2. It is for your information that in compliance with Hon'ble Guwahati High Court orders dated 08 Oct 2007, the Annual Board of Officers held on 17 and 18 Jan 2008 a fresh accepting the point 65 as awarded to you by the pre-Annual Board held at HQ Eastern Command on 01 Dec 2007. As per the existing instructions only 5 % of direct recruitment vacancies can be filled by compassionate appointment and in the time being the number of candidates (611) much more than the number of vacancies (75) only those who figure at serial No 1 to 75 of the common merit list has been offered appointment. Your name was at Serial No 171 of the common merit list for Group 'D' post.
3. The Scheme of appointment on compassionate ground 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 dependant of each and every deceased 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. Therefore, all the compassionate appointment requests are considered by the Board of Officers constituted for the purpose as per the Govt Policy, to find out the most deserving cases which are in acute financial distress more indigent in comparison to other similarly placed cases against the 5 % of DR vacancies occurring in a given year.
4. To find out the most deserving cases 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 and recommends only the really deserving cases as per guidelines of marking system approved by the Ministry that too only if clear vacancy mean for appointment on compassionate ground exists within the ceiling of 5 % DR vacancies.

Contd... P/2

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5. It is further intimated that your request and as per the order of Hon'ble High Court, Guwahati has been considered for the fourth time by the Board assembled on 17 and 18 Jan 2008 at Army HQ along with other candidates on the basis of criteria laid down to determine relative hardship and limited number of vacancies available, it is not feasible to consider your case again as per existing policy.

(Sanal Kumar AV)
Lt Col
Officer Commanding

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
5 MAR 2009
गुवाहाटी बेंच
Guwahati Bench

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ADVOCATE

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case :

OA No. 41 of 2009

BETWEEN
Shri Punu Sarma

Applicant

AND

UNION OF INDIA & ORS

RESPONDENTS

Written Preliminary Objection submitted by the Respondents

I N D E X

Sl No.	Particulars	Page No.
1.	Written Statement -----	1 to 12
2.	Verification -----	13
3.	Annexure-I (request/application dated 20.9.2000 for employment of her son)-----	13 (A)
4.	Annexure-II (Deceased son's application dated 19.9.2000)-----	14
5.	Annexure-III (relaxing the normal Rules put up the matter before selection Board vide letter dated 03.1.2002)--	15
6.	Annexure-IV (letter dated 12.3.2001, Turing down the consideration and employment)-----	16
7.	Annexure-V (letter dated 17.4.2001, re-submitted for re-consideration the employment)-----	17
8.	Annexure- VI (letter dated 10.11.2002, reasons for returning the case/filed)-----	18
9.	Annexure-VII (letter dated 13.4.2005, remarks obtained by the applicant)-----	19
10.	Annexure-VIII (letter dated 22.1.2002, department correspondence mentioning reason for non-selection)-----	20
11.	Annexure- IX (letter dated 29.4.2002, representation by mother scheme for compassionate appointment)-----	21 to 25
12.	Annexure- X (Revised consolidated instruction for the Compassionate scheme/ scheme)-----	26 to 29
13.	Annexure- XI (letter dated 20.11.2007, forwarding High Court's order--	30 to 33
14.	Annexure-XII (letter dated 1.12.2007, supplementary Board proceeding--	34
15.	Annexure-XIII (correspondent 30.1.2008, re-considering and directed to issue spreading order, in compliance with High Court order)-----	35
16.	Annexure-XIV (letter dated 4.2.2008 informing non-recommendation by Annual Board meeting dated 17-18.1.2008)-----	36
17.	Annexure-XV (correspondence dated 12.2.2008 to issue spreading order as per High Court's order)-----	37
18.	Annexure-XVI (speaking order dated 14.3.2008)-----	38 & 39
19.	Annexure-XVII (order passed by different CAT)----- 2 DOP's guideline etc.	40 to 61

Filed by : *Md. Motin-Ud-Din Ahmed*

Md. Motin-Ud-Din Ahmed), Addl CGSC

Date 23/7/09

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

filed by 12
Respondent 6
Shri. M. U. Ahmed (Gsc)

IN THE MATTER OF :

Original Application. No.41/2009

Shri Punu Sarma

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No.

WRITTEN STATEMENT

The humble answering respondents
submit their written statement as
follows :

- (a) That I SANAL KUMAR AV LT COL
OFFICER COMMANDING, NO 1 ADV BASE STY DEPOT
and Respondents No. 3 in the above case and I have gone through
a copy of the application served on me and have understood the contents
thereof. Save and except whatever is specifically admitted in the written
statement, the contentions and statements made in the application may
be deemed to have been denied. I am competent and authorized to file
the statement on behalf of all the respondents.
- (b) The application is filed unjust and unsustainable both on
facts and in law.

filed by 47

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

34
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P-56

(c) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(d) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.


2. That with regard to the statements made in paragraphs 4.1, 4.16 & 13 of the application, the answering Respondents beg to state that they do not admit anything which is inconsistent with and contrary to the record and based on legal foundation and as such the applicant is put to strictest proof thereof.

3. That with regard to the statements made in paragraph 4.2 of the application the answering respondents beg to state that late H.P.Sharma was an employee of No. 1 Adv Base Stationery Depot, C/o 99 APO and served as Watchman. He died on 4th June 2000 while his 4 years service was left till retirement leaving the following family members

- | | | | |
|-----|-------------------|---|----------|
| (a) | Mrs Maya Devi | - | 50 Years |
| (b) | Shri Punu Sharma | - | 26 years |
| (c) | Miss Puspa Devi | - | 22 years |
| (d) | Sri Subham Sharma | - | 15 years |

4. That with regard to the statements made in paragraph 4.3 of the application the answering respondents beg to state that they have not agreed to the contents made in this para. After passing the H.S. Final Examination he continued 2 years Computer Training course in New Delhi also.

5. That with regard to the statements made in paragraph 4.4 of the application the answering respondents beg to state that after the


(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

death of H P Sharma his wife Smt Maya Devi, wife of the deceased, intimated this office vide her application dated 20th September 2000 (Annexure-1) that employment of her elder son Shri Punu Sharma may be considered on compassionate ground and she has no objection if her son's application is considered for employment. Subsequently, the deceased son Shri Punu Sharma had also applied for employment on compassionate ground vide his application dated 19th September 2000 (Annexure-II).

There is some specific instructions how to consider and to whom the appointment in relaxation to normal rules which is considered by Selection authority (i.e. Annual Board of Officers) after examination of the application of the dependent. The Officer Commanding No.1 Advance Base Stationery Depot, C/o 99 APO is not the sole authority to consider the appointment of the deceased relatives but only can recommend the application of the dependent and forward it to next higher formation, i.e.

HQ Eastern Command, Kolkata/IHQ New Delhi for further consideration of the appointment as per existing orders. In this case also the dependent of the deceased was asked to submit his application and on receipt of the application it was forwarded to HQ Eastern Comand (Ord) to put up the same before the Selection Board (Board of Officers) for consideration of his appointment. But his appointment could not be considered even for three times due to availability of most deserving candidates against limited number of vacancies who secured more marks than Shri Punu Sharma.

6. That with regard to the statements made in paragraph 4.5 of the application the answering respondents beg to state that due importance was given to his application for employment in relaxation to normal rules and forwarded to the higher HQ/appointing/Selection

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Stn Depot

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

23 JUL 2009

authority for consideration of his application as per instruction laid down in the ibid Govt. order, because the respondent No.2 and 3 is not the appointing authority but only a recommending authority.

7. That with regard to the statements made in paragraph 4.6 of the application the answering respondents beg to state that the respondents forwarded the application along with other connected documents duly recommended his candidature for consideration of his appointment in relaxation to normal rules and put up before the selection Board vide this depot letter No.316/02/PS/Adm(Civ) dt. 03.1.2002 (Annexure-III) to the respondent No. 2 with an information to Shri Punu Sharma.

8. That with regard to the statements made in paragraph 4.7 of the application the answering respondents beg to state that there is a time limit that the consideration of appointment/selection should be done within one year in three occasions and if the applicant is not come

23 JUL 2009
Guwahati Bench
National Administrative Tribunal

into merit in three occasions his case is finally rejected. In the instant case also the Board of Officers for consideration of appointment on compassionate ground was held 20-31 January 2001, but Shri Punu Sharma could not be appointed due to release of limited number of vacancies (restriction of 5%) by the higher formations, appearing more deserving candidates and not obtain sufficient marks as per existing rules. The first deserving candidates had received 64 marks and therefore, the case was turned down by HQ Eastern Command vide their letter No.321914/2/B-31/141/OS-8C dated 12th March 2001 (Annexure-IV).

The case was again re-submitted vide this office letter No. 316/2/PS/Adm(Civ) dated 17th April 2001 for consideration of his employment with a copy to Shri Punu Sharma for his information

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Stry Depot

(Annexure-V). The Board of Officers was convened on 25th May 2001 for the 2nd time and for the 3rd time on 1st November 2001. The application of Shri Punu Sharma placed before the Board alongwith other candidates application but Shri Punu Sharma had obtained only 63 marks for 2nd time and 65 marks for the third time whereas the other deserving candidates had received 85 and 70 marks respectively (Annexure-VI & VII). While his appointment could not be considered, the case was finally rejected by the Board due to release of limited number of vacancies, by Higher HQ, appeared most deserving cases than Shri Punu Sharma who had obtained less marks also. The matter had also been intimated to Shri Punu Sharma vide this office letter No.335/21/HP/Adm/(Civ) dated 22nd January 2002 (Annexure-VIII). The scheme does not necessarily imply that the dependent of each and every deceased Govt. employee will be offered appointment on compassionate ground. It is pertinent to mention here that quota prescribed for purpose of compassionate appointment is only 5% of the total direct recruitment vacancies occurring in a year in Group 'C' and Group 'D' posts. Therefore, all the compassionate appointment request are carefully considered from all sides by the Board of Officers constituted for the purpose as per Govt. policy to find out the most deserving cases based on various parameters laid down by the Govt. against 5% quota of DR vacancies occurring in a given year. To find out the more deserving cases, the Board of Officers take the various aspects such as family size including ages of children, amount of terminal benefit, amount of family pension, liabilities in terms of unmarried daughters, minor children, movable and immovable properties left by the deceased at the time of death and recommends only the really deserving cases as per guidelines of marking system approved by the Ministry that too only of the clear vacancy meant for appointment

राष्ट्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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Guwahati Bench

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

on compassionate ground exist within ceiling of 5% DR vacancies (Annexure-IX).

9. That with regard to the statements made in paragraphs 4.8 & 4.9 of the application the answering respondents beg to state that as per Govt. of India, Ministry of Personnel, Public Grievances & Pensions letter No. 14014/6/94-Estt-D dated 9th October 1998 (Annexure-X), only one dependent of the deceased either son, wife, daughter, brother or sister in the case of unmarried Govt. servant may apply for employment in relaxation to normal rules. Accordingly, Shri Punu Sharma, son of the deceased was placed before the Board thrice and not selected for employment due to appearance of more deserving candidates, released limited number of vacancies and acquire less marks as per norms for the subject. Hence, after final rejection of consideration of the deceased wife's application does not arises as per policy mentioned above.

10. That with regard to the statements made in paragraphs 4.10, 4.11 and 4.12 of the application the answering respondents beg to state that after final rejection and became time barred for consideration of the case the individual approached before the Hon'ble Guwahati High Court by way of filing one Writ Petition (Civil) No.2103/2005. The Hon'ble Gauhati High Court finally heard and was remand back the matter to the concerned authorities for reconsideration of his case within two months. Thereafter, the Hon'ble High Court order was forwarded to the Integrated HQ of MoD(Army) for reconsideration of the case as per order of the Hon'ble High Court vide this office letter No. 322/PS/CC/Adm(Civ) dated 20th November 2007 (Annexure-XI). On receipt of the Hon'ble High Court order Army HQ asked supplementary Board Proceeding for Group 'D' post in respect of Shri Punu Sharma son of late H P Sharma for reconsideration as per High Court order. HQ Eastern Command (Ord)

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23 JUL 2009

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot


7 39 8-51 63

forwarded the case to IHQ vide their letter No.321914/2/BD2005-06/06-07/OS-8C dated 1st December 2007 (Annexure-XII). The annual Bord was held on 17th and 18th January 2008 at Army HQ, New Delhi on all India basis. In this time also he could not be selected due to low in merit and appear more deserving candidates. The matter had been intimated by IHQ to this depot vide IHQ Sig No. A/23802/BD-04-07/1ABSD/EC/OS-8C 1) date 30th January 2008 (Annexure-XIII) and instructed this office to issue speaking order and subsequently issued speaking order to Shri Punu Sharma vide this depot letter No. 327/PS/CC/Adm(Civ) dated 4th February 2008 (Annexure XIV).

Again IHQ vide their letter No. A/23802/BD-04-07/1ABSD/EC(OS-8C(I) dated 12th February 2008 (Annexure-XV) intimated to this office that in compliance with Hon'ble Gauhati High Court orders dated 8th October 2007, name of Shri Punu Sharma was considered for appointment on compassionate ground for Group 'D' post (for the fourth time) by Annual Board of Officers held on 17th and 18th January 2008. The Board has not recommended his name for appointment due to low in merit and limited number of vacancies earmarked for compassionate appointment. While last applicant recommended for appointment had secured 73 points out of 100 points scaling system (prescribes vide MoD ID No.18(9)/824-99/1998-d(Lab) dated 9th March 2001) Shri Punu Sharma has secured 65 points and stand at Sl. No. 171 of the common merit list for Group 'D' post. It may be relevant to point out that a total of 611 applicants were considered by

the Board to fill 75 Group 'D' vacancies required to be filled by compassionate ground and suggest this office to issue speaking order. As per advice of IHQ the speaking order has been issued to Shri Punu

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Guwahati Bench


(Lt Col)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

Sharina vide this depot letter No. 316/2/PS/CC/Adm(Civ) dated 14th March 2008 (Annexure-XVI).

11. That with regard to the statements made in paragraphs 4.13 and 4.14 of the application the answering respondents beg to state that the statements given by the applicant is wrong. Because the selection procedure has already mentioned in above paragraphs. The Annual Board is held at Army HQ New Delhi once in a year and the list of applicants and merit list/marks obtained etc. are kept in Army HQ and no merit list of selected candidates is send to the subordinate units. IHQ has issued only selection/non selection letters to the concern units. If require by the court this will be called for from IHQ and produce before the Hon'ble Tribunal.

12. That with regard to the statements made in paragraph 15 of the application the answering respondents beg to state that the family have the sufficient source to maintain the family and two sons and one daughter are also adult and can earn their livelihood besides having pension, home and immovable property of about 4 lakhs and maintaining family smoothly for the last eight years i.e. 2000 since the death of their father. The statement given in this paragraph is not correct. There are adequate proof that the family has to managing somehow all these years and had some dependable means of subsistence.

13. That with regard to the statements made in paragraph 4.17, 4.18 & 4.19 of the application the answering respondents beg to state that the individual is not suffering from any frustration and mental depression rather he is peacefully working and roaming in the society. As per DOP&T instructions and supreme Court ruling regarding the scheme of compassionate appointment that compassionate appointment could

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

प्रशासना
Administrative

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Guwahati Bench

not be granted after lapse of reasonable period and it is not vested right which can be exercised at any time in future. In the instant case also more than eight years have been passed and the claim of compassionate appointment is not a legitimate right of the applicant. The applicant has given wrong statement in para 4.19.

14. That with regard to the statements made in paragraph 4.20 to 4.23 of the application the answering respondents beg to state that the respondents has not violated the rights of the applicant enshrined under the constitution of India nor done any illegal arbitrary, malafide or adopted any colourable exercise of power for rejecting the case of the applicant for compassionate appointment. The applicant has been considered three times and for the fourth time giving due importance of Hon'ble High Court order even after time barred of the case after a gap of number of years, i.e. from 2000.

The consideration of case of the applicant has been justified carefully giving due importance for appointment in Group 'D' post but for the reasons mentioned in above para, he could not be considered for appointment.

15. That with regard to the statements made in paragraph 5.1 of the application the answering respondents beg to state that the respondent has not done any prima facie illegal, mala fide, arbitrary without the considerations of the applicant's case rather tried their level best for compassionate appointment for even fourth chance also.

16. That with regard to the statements made in paragraph 5.2 of the application the answering respondents beg to state that the total number of vacancies available year wise against the 5% quota is not known to the respondent No.3 because it was with Annual Board of Officers at Army HQ who is considered and selected the candidates for

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

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न्द्रीय प्रशासनिक
Central Administrative

compassionate appointment as per release of vacancies by Govt. and it is not informed to the units and only applications are asked for from the units. The respondent No.3 is only the forwarding authority and neither have the power to select/appoint any candidate on compassionate ground nor can reject. In this case the supreme appointing/selection authority is the Board of Officers detailed by IHQ of MoD(Army), New Delhi.

17. That with regard to the statements made in paragraph 5.3 of the application the answering respondents beg to state that Officer commanding has no power to reject the case for appointment on compassionate ground and not known the person selected or appointed year wise so far as these are all done by the Board of Officers as per the orders of IHQ of MoD (Army). The Officer Commanding is not the modal of employer as mentioned in the statement rather he is only a forwarding Agency and followed the instructions as directed by Army HQ the selection and appointing authority for compassionate appointment in relaxation to normal rules.

18. That with regard to the statements made in paragraph 5.4 & 5 of the application the answering respondents beg to state that on receipt of the Hon'ble High Court order the respondent has sent the order to Army HQ for further necessary action and consideration of the applicant's case afresh by accepting his marks as 65. As per the order of the Hon'ble High Court, Army HQ arranged a supplementary Board which was held at Army HQ on 17th and 18th January 2008 where he is again disqualified and advised this office to issue speaking order. The marks sheet obtained by the other candidates who were qualified for appointment on compassionate ground Scheme are with Army HQ and requirement of these will be produced before the court on receipt from

(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

राष्ट्रीय प्रशासनिक आयोग
National Administrative Tribunal

12.3 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Army HQ. The list of the selected candidate is not available with the respondent No.3.

19. That with regard to the statements made in paragraph 5.6 of the application the answering respondents beg to state that as per the latest supreme court order there is no reservation for compassionate appointment nor it can be demanded as a matter of right and it is subject to the availability of vacancies meant for this purpose. Hence, if there is any direction of court for consideration for such appointment on compassionate grounds. It may be considered on merit and even if it found to deserving one it may be agreed to only if a vacancy meant for such appointment are available within a year. Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future. The father of the applicant has died during the year 2000, i.e. nine years ago. Secondly, there are some Court/CAT order where the belated/old cases are rejected by the CAT (Annexure).

20. That with regard to the statements made in paragraph 5.7 of the application the answering respondents beg to state that they have not done any own willing action rather all the action that has been taken as per the order of the IHQ of MoD (Army) and hence they are not responsible for as blamed by the applicant.

21. That with regard to the statements made in paragraph 5.8 of the application the answering respondents beg to state that Officer Commanding No.1 Adv Base Stationary Depot (Respondent No.3) is not the model employer and he is not taken any lackadaisical attitude to the applicant. The speaking order issued to the applicant as per order of IHQ of MoD (Army).

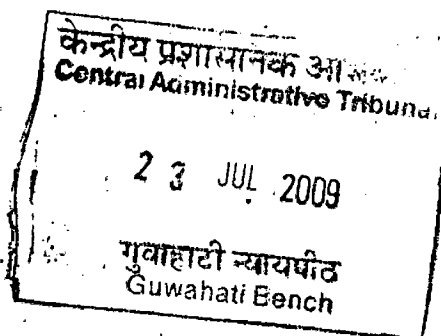
(Sana Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

प्रशासनिक आ
Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

22. That with regard to the statements made in paragraph 5.9 of the application the answering respondents beg to state that the Respondent No.3 has tried his level best for selection of the applicant for appointment on compassionate ground for fourth time also.
23. That with regard to the statements made in paragraph 5.10 of the application the answering respondents beg to state that the respondent has not done any discriminatory and negligent act for which the applicant is deprived for compassionate appointment.
24. That with regard to the statements made in paragraph 5.11 of the application the answering respondents beg to state that the respondent has not taken such action which are maintainable in the eye of law as well as in fact.
25. That with regard to the statements made in paragraph 5.12 of the application the answering respondents beg to state that the respondent has not violated any terms and conditions of his own circular and guidelines conferring legal right of the applicant's for appointment on compassionate ground.
26. That the application is devoid of any merit and deserved to be dismissed.
27. That this reply has been made bona fide and for the ends of justice and equity.

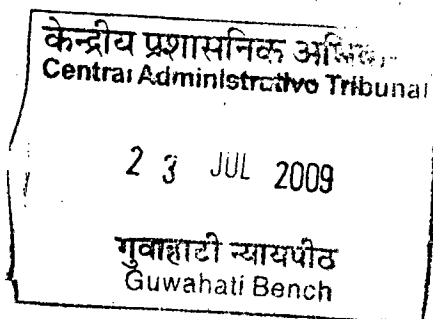


(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

VERIFICATIONI, SANAL KUMAR AV

Son of Late VISHWNATHAN NAIR MN aged about 50 years, resident of QR NO 'A'-50 Narengi Mil Cantonment working as Oc Lt Col at No 1 Adv Base Stationery Depot duly authorized and competent officer of the answering respondents to sign this verification, do hereby solemnly affirm and verify that the statements made in Paras 349, 114 14, 144 2, are true to my knowledge, belief and information and those made in Para 15 being matters of record are true to my knowledge as per the legal advice and I have not suppressed any material facts.

And I sign this verification on this 21st day of May 2009 at Guwahati



(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

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- 8 - ANNEXURE - I
- 13 -

To

Dated: 19 Sep 2000

The Officer Commanding
No 1 Adv Base Stationery Depot
C/O 99 APO

Sub:- REQUEST FOR EMPLOYMENT OF MY SON ON
COMPASSIONATE GROUND

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Sir,

With due respect and humble submission I beg to state the following few lines for your kind consideration and favourable action please:-

That Sir my husband who was an employee of your unit has expired on 04-6-2000 during his service period. That on the death of my husband late Hari Prasad Sharma we have been facing grave economic hardship as our sole bread earner in the family was my husband. My husband left five dependent family members including one married daughter. None of our family members is employed anywhere in any Govt job.

That Sir, from the death of my husband there is no earning members and children are also school going and I am facing great financial distress. My elder son Punu Sharma has passed the HSLC examination in 1st Divn. and now in the age of service.

I therefore, request to your kind honour to give an employment to my elder son in any grade on compassionate ground to save the family members from die of starvation. And for this act of your kindness I shall remain ever grateful to you. And also I have no objection to give employment to my son.

Yours faithfully,

Maya Devi

(Mrs Maya Devi)
W/O late Hari Prasad Sharma
No 1 Adv Base Stationery Depot
C/O 99 APO

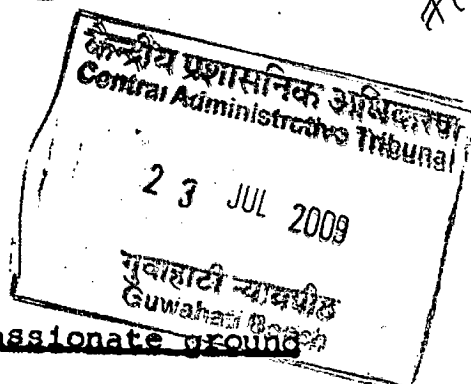
Dated: 20 Sep 2000

Signature of Officer

- 9 -

47
ANNEXURE - II

- 14 -



To

The Officer Commanding
No 1 Adv Base Stationery Depot
C/O 99 APO

Sub:- Prayer for employment on compassionate ground
IN relaxation to normal rules

Sir,

With due respect I beg to state the following few lines for your kind consideration and favourable action please:-

That I am the son of late Hari Prasad Sharma who was the fourth grade employee of No 1 Adv Base Stationery depot and he expired on 04-06-2000, during the tenure of his service.

That on the death of my father he left 4(four) children and my widow mother. We have been facing grave economic hardship as our sole bread earner in the family was our father. None of our family members is employed any where. My elder sister (Married) and also my mother are not willing to do any Govt job.

That we are very poor having no source of income for livelihood except the meagre pension to be paid to my mother.

That my mother also approached your department for giving job to me on compassionate ground.

I therefore, request to your kind honour to appoint me in any Class IV grade post on compassionate ground. In this act of kindness, I shall ever pray.

Yours faithfully,

Dated: 19 Sep 2000.

Punu Sharma
(Shri Punu Sharma)
S/O late Hari Prasad Sharma
Ex-Chowkider of No 1 Adv
Base Stationery Depot
C/O 99 APO

Counter signed

(Signature)

(Bharat Chevur)

late Mr Sharma, Satgaon

10 - ANNEXURE - III 48

REGISTERED POST

No 1 Adv Base Stationery Depot
C/O 99 APO

316/02/PS/Adm(Civ)

03 Jan 2001

HQ AOC
HQ Eastern Command
Port William, Calcutta- 21

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal


23 III 2009

EMPLOYMENT ON COMPASSIONATE GROUND IN
RELAXATION TO NORMAL RULES

1. Refer to HQ Eastern Command letter No. 321914/2/1899/
OS-8C dated 19 Dec 2000.

2. Application in respect of Shri Punu Sharma, son of
late HP Sharma seeking employment in relation to normal
rules is forwarded herewith along with the following
connected documents for further necessary action:-

- (a) Application as per Proforma (Part 'A' 'B')
of Army HQ L/No. 93669/Policy/OS-8C(1) dated
30 Jul 99.
- (b) Eligibility certificate duly signed by OC.
- (c) Attested copy of educational qualification
certificated
- (d) Certificate of date of Birth along with an
affidavit executed by the applicant through the
court that the date of birth will not be changed
at a later stage.
- (e) Affidavit from Court as proof for movable and
immovable properties.
- (f) Photocopy (Attested) of birth certificate in
support of age of minor children.
- (g) Request from the Widow/mother for giving
employment of her son.
- (h) No objection certificate from the married
daughter.
- (j) Complete service Book of the deceased Govt servant
showing the details of Pension, DCR gratuity, leave
encashment and CGEIS. GP Fund balance not yet paid/
release from JCDA(F) Meerut.


(Bharat Chevur)
Major
Officer Commanding

Copy to:-

Shri Punu Sharma
S/O Ex- Chowkider
Late HP Sharma, Satgaon

File : 222-2787

- 14 -

ANNEXURE - IV

(7)

- 16 -

REGISTERED/SDS
Headquarters
Eastern Command (Ord)
Fort William
Calcutta - 21

321914/2/B-31/4/OS-8C

No 1 Adv Base Sty Depot
C/O 99 APO

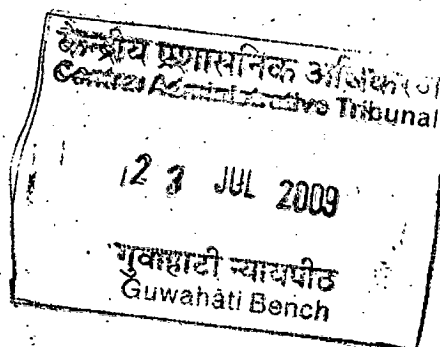
Mar 2001

EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. Ref your letter No 316/02/PS/Adm(Civ) dated 03 Jan 2001.
2. The case of Shri Panu Sharma S/O Watchman Late HP Sharma of your unit was considered by the Board of Officers held during 18-31 Jan 2001 but he could not be selected for employment on the basis of laid down criteria.
3. Please keep it on your records and ensure that the cases which have been considered three times and not selected for employment are treated finally rejected and individuals informed accordingly. Service documents and connected papers in respect of the cases are returned herewith.
4. Please ack.

Encls : One B/Bosko along with
Other Connected Papers

(Sameer Bhatnagar)
Capt
DA DOS (Adm)
for MC AOC



- 12 - ANNEXURE - 44 V
- 17 -
REGISTERED/S.D.S.

No 1 Adv Base Stationery Depot
C/O 99 APO

316/02/PS/Adm(Civ)

17 Apr 2001

MG AOC
HQ Eastern Command(Ord)
Fort William, Calcutta- 21

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी ब्याचपीठ
Guwahati Bench

EMPLOYMENT ON COMPASSIONATE GROUND IN
RELAXATION TO NORMAL RULES

1. Refer to HQ 101 Area letter No. 14082/OS-8B dated 04 Apr 2001.

2. Application in respect of Shri Punu Sharma son of late HP Sharma seeking employment in relaxation to normal rules is forwarded herewith along with the following connected documents for further necessary action:-

- (a) Application as Proforma (Part 'A' & 'B') of Army HQ L/No. 93669/Policy/OS-8C(1) dated 30 Jul-99.
- (b) Eligibility certificate duly signed by OC.
- (c) Attested copy of educational qualification certificate.
- (d) Certificate of date of birth along with an affidavit executed by the applicant through the court that the date of birth will not be changed at a later stage.
- (e) Affidavit from Court as proof for movable and immovable properties.
- (f) Photocopy(Attested) of birth certificate in support of age of minor children.
- (g) Request from the Widow/mother for giving employment for her son.
- (h) No objection certificate from the married daughter.
- (j) Complete service book of the deceased Govt servant showing the details of Pension, DCR gratuity, leave encashment and CGEIS, GPF balance etc.

(Bharat Chevur)
Major
Officer Commanding

Copy to:-

HQ 101 Area
C/O 99 APO

- for information with ref to letter
No and date mentioned above.

Shri Punu Sharma
S/O Late HP Sharma
Satgaon, Guwahati-71

- for information please with ref
to his application dated 19 Sep 2000.

-18-
C O P Y

51
ANNEXURE-VI

Tele: 222-2787

Headquarters
Eastern Command (Ord)
Fort William
Kolkata - 700021

321914/2/B-35/8/OS-8C

10 Jan 2002

1 Adv Base Sty Depot

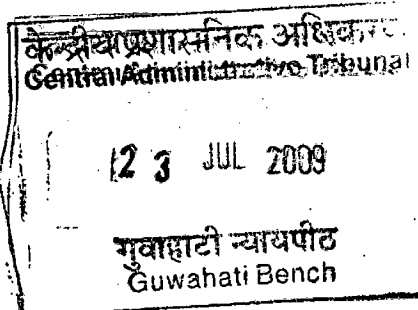
EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. Apropos of this HQ letter No. 321914/2/B-35/X/OS-8C dt 10 Jan 2002, the cases which are more than one year old and the cases which have been considered three times as follows, are returned herewith for your necessary action and information of the individuals bringing out the reasons for their non selection including a very limited number of vacancies and latest orders on the subject.

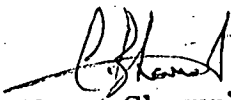
(a) Shri Punu Sharma
S/O Late watchman
HP Sharma

Enclo: As above.

Sd/- x x x
(Ramesh Bakshi)
Lt Col
DADOS(Adm)
for MG AOC



C O P Y


(Bharat Chevur)
Major
Officer Commanding

2222-6916

Annexure - I

-19-

52

10

Annexure - VII

16

REGISTERED/SOS

Headquarters
Eastern Command (Ord)
Fort William
Kolkata - 71

321866/12/10/ 2105-80

No 1 Adv Base Stry Depot
C/O 99 APO

Apr 05

WPIC NO 2103/2005 FILED BY PUNU SHARMA
VS UOI & OTHERS IN GUWAHATI HIGH COURT
AT GUWAHATI BENCH

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

1. Ref your letter No 322/PS/CC/22/Adm(Ch) dated 05 Apr 2005.
2. 51 Sub Area Legal Cell letter No 600322/MISC/LC/17 dated 31 Mar 2005 has not been received, a copy of which may please be provided.
3. In this context, this HC letter No 321914/1/502/OS-80 dated 12 Oct 2004 circulating draft speaking order along with DOP&T Instr and Supreme Court rulings on the issue may please be referred and Govt Counsel be apprised accordingly to defend the case effectively.
4. The required input is furnished as under :-

<u>1st time</u>	<u>2nd time</u>	<u>3rd time</u>
(Board held on	(Board held on	Board held on
<u>20-31 Jan 01)</u>	<u>25 May 01)</u>	<u>01 Nov 01)</u>

(a) Marks obtained by last candidates recommended	64	65	70
(b) Marks obtained by Sri Punu Sharma	45	63	65

4. Please ack.

Jam
(Jarnail Singh)
Lt Col
A DOS(Adm)
for MG AOC

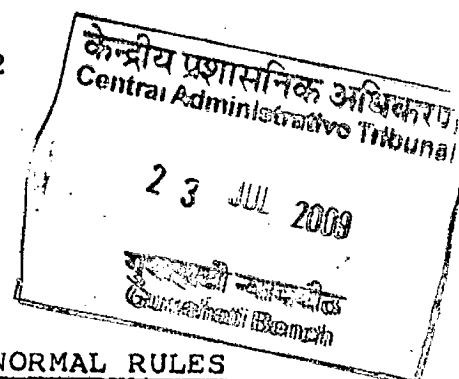
-20-

No 1 Adv Base Stationery Depot
C/O 99 APO

335/21/HP/Adm(Civ)


21 Jan 2002

Shri Punu Sharma
S/O Late HP Sharma
Vill:- Satgaon (Kochpara)
PO: - Satgaon, Guwahati- 71



EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. Refer to your application dt-19 Sep 2000 for employment in relaxation to normal rules.
2. As per latest existing order of the Govt., your case for employment in relaxation to normal rules have been considered three times and not selected for employment. An extract copy of HQ Eastern Command (Ord) letter No. 321914/2/B-35/8/OS-8C dt 10 Jan 2002 is enclosed for your information.


(Bharat Chevur)
Major
Officer Commanding

Copy to:-

MG AOC
HQ Eastern Command (Ord)
Fort William, Calcutta- 21

- for information with
ref to letter No and date
mentioned above.

222-2787

ANNEXUR-IX (series)

REGISTERED/SDS
Headquarters
Eastern Command (Ord)
Fort William
Kolkata - 21

321914/2/77 /OS-8C

29 Apr 2002

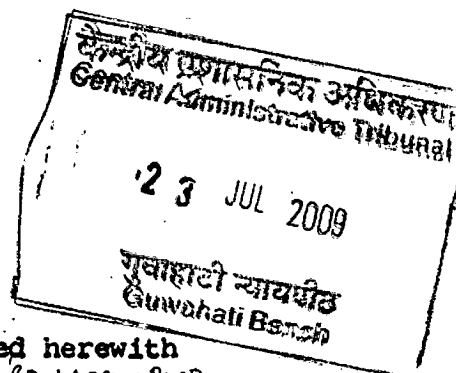
Officer Commanding
1 Adv Base Sty Depot
C/O 99 APO

EMPLOYMENT IN RELAXATION TO NORMAL RULES

1. A copy of an application dated 15 Apr 2002 from Smt Maya Devi W/O Late HP Sharma, Watchman is forwarded herewith for suitable reply to the petitioner. Her application dt 14 Nov 2002 is held with your dept.

Encls : (1)

(Ramesh Bakshi)
Lt Col
DA DOS (Adm)
for MG AOC



कन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

55-22-
Annexure-IX

ANNEXURE - IX (Series)

From- Smti Maya Devi,
W/o Late H.P. Sharma, Watchman,
Vill- Satgaon (Koch Para),
P.O.- Udayan Vihar, Guwahati,
Dist- Kamrup, Assam.

Date. 14/3/2002

To,

MG AOC
HQ Eastern Command (Ord)
Fort William, Calcutta- 21.
Sub:- EMPLOYMENT IN RELAXATION TO NORMAL RULES.

Sir,

With reference to your Headquarters letter Nos. 321914/2/B-31/141/OS-8C dated 21-3-2001 and 321914/2/P-35/8/OS-8C dated 10-01-2002 addressed to No. 1 Adv Base Depot and No. 1 Adv Base Sty. Depot letter, No. 335/21/HP/Adm(Civ) dated 22-1-2002.

That sir, the case for employment of my son Sri Punu Sharma has been rejected by the Board of Officer as intimated vide letters quoted above.

Sir, I have look after my three school going children and I have no any source of income except my little pension. After expiry of my husband I become helpless. It is not possible for me to carry out my life with my three children with my little pension. My husband was expired with kidney disease with Chronic Renal Failure on 4 June 2000. Death certificate photo copy attached herewith.

I therefore request your honour kindly give me a civil job in your department in place of my son whose name was rejected by the Board of officer. I am voluntarily willing for employment in your Department in Guwahati. My name may kindly be included in the list so that I can get a job in your deptt. For your act of kindness I shall remain ever grateful to you sir.

Yours faithfully,
Sd/- Illegible
Smti Maya Devi.
W/o Late H.P. Sharma.

Copy to: No.1 Adv Base Stationary Depot For information and C/o 99 APO necessary action please.

Ministry of Defence
D(Lab)

ANNEXURE - 1A (Series)

Subject : Scheme for Compassionate appointment - Relative Merit Points and Revised Procedure for selection.

Reference DOP&T OM No 14014/6/94-Estt(D) dated 9-10-98 and subsequent modifications thereto with regard to the Scheme for Compassionate appointment.

2. DOP&T have prescribed a formal procedure and time limit to be adopted for compassionate appointment as brought in Para 12 and amendment thereto of the Scheme under reference. The proforma given as Annexure to above reference provides adequate information regarding the overall circumstances of the family, to make a recommendation/decision regarding compassionate employment of the applicant. The procedure involved and the criteria to be adopted for ascertaining the economic status of the family of the Government servant and the eligibility of the candidate concerned has also been clearly brought out.

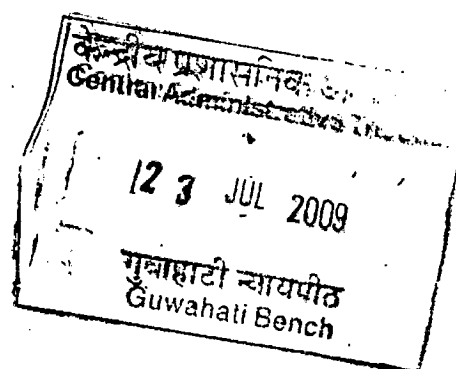
3. While considering cases for compassionate appointment, merits of the cases were conveniently decided by allotting points to the applicants based on various attributes as indicated in the Annexure to the MOD ID No 271/93/Lab dated 02 Nov 1993. After implementation of the Vth Pay Commission's recommendation, the points allotted to various aspects like family pension, terminal benefits etc have become redundant. Thereupon, the suggestions/opinion received from various Headquarters in response to MOD ID No 824/D(Lab)/93 dated 12-7-93 have been considered and the competent authority has decided that the revised points based on a hundred point scale as indicated below be attributed to various parameters for a comparatively balanced and objective assessment of requests of really deserving candidates for compassionate appointment :-

(a) Family Pension - (Basic excluding DA & allowances)

(i)	Upto Rs 1300	-	20
(ii)	1301 - 1500	-	18
(iii)	1501 - 1700	-	16
(iv)	1701 - 1900	-	14
(v)	1901 - 2100	-	12
(vi)	2101 - 2300	-	10
(vii)	2301 - 2500	-	8
(viii)	Above Rs 2500	-	6

(b) Terminal Benefits

(i)	Upto Rs 100000	-	10
(ii)	100001 - 120000	-	9
(iii)	120001 - 140000	-	8
(iv)	140001 - 160000	-	7
(v)	160001 - 180000	-	6
(vi)	180001 - 200000	-	5
(vii)	200001 - 220000	-	4
(viii)	220001 - 240000	-	3
(ix)	240001 - 260000	-	2
(x)	260001 - 300000	-	1
(xi)	Above Rs 300000	-	Nil



05/058-C
13/3

(c) Monthly Income, of earning member(s) and income from Property.
(This does not include the monthly family pension/pension due to the death/MBO/missing of govt. servant, but any other pensions, income of all the family members (including earning members living separately) should be accounted)

(i)	No. income	5
(ii)	Rs 1000 or less	4
(iii)	Rs 1001 to 2000	3
(iv)	Rs 2001 to 3000	2
(v)	Rs 3001 to 4000	1
(vi)	Rs 4001 and above	Nil

(d) Movable/Immovable Property (Latest Market Value in Rs.)

(i)	Nil	10
(ii)	Upto 50000	8
(iii)	50001 - 100000	6
(iv)	100001 - 200000	3
(v)	200001 and above	1

(e) No. of dependents

(i)	3 and above	5
(ii)	2	10
(iii)	1	5

(f) No. of unmarried daughters

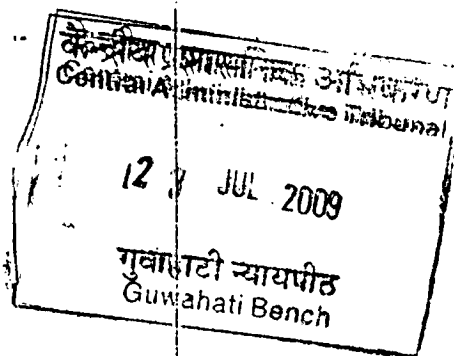
(i)	3 and above	15
(ii)	2	10
(iii)	1	5
(iv)	None	0

(g) No. of Minor children

(i)	3 and above	15
(ii)	2	10
(iii)	1	5
(iv)	None	0

(h) Left over service.

(i)	0 - 5 years	2
(ii)	Over 5 & upto 10 years	4
(iii)	Over 10 & upto 15 years	6
(iv)	Over 15 & upto 20 years	8
(v)	Over 20 years	10



4. The weightage fixed above is to be strictly followed for assessing comparative merit keeping in view the instructions issued by the DOP&T from time to time. Further, all applications may be acknowledged immediately on receipt and decision of the Board of Officers (BOO) be communicated to the applicants after every sitting. The system of WAITING LISTS have already been discarded (Ref. DOP&T OM F.No.14014/23/99-Estt.(D) dated 3-12-1999). The candidates are required to apply only once and the application if not recommended in the first BOO for want of vacancy, is to be considered afresh alongwith the fresh applicants by the BOO on three occasions consecutively and ensure that the final decision is communicated to the applicant by a detailed speaking order.

- 20 - 58 -
- 25 - 24 -

-3-

5. Moreover, it has been decided that the Committee (BOO) for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% meant for the purpose. This would ensure grant of compassionate appointment within a year.

6. These guidelines being meant for various HQrs/Subordinate Offices/IS Organisations of the Ministry of Defence, be brought to the notice of all concerned for information and strict compliance, so as to ensure appropriate action in all cases of compassionate appointment including cases coming up before the CAT/Courts.

(Shingara Singh)
Deputy Secretary/D(Lab)
3012660

To

Army HQrs/AG Branch/MP4 (Civ) (a)
Naval HQrs/CP Dte
Air HQrs/PC-5

Copy to :-

- D(Air-III)
- D(B&C)
- DPR
- D(R&D)
- D(Fy.II)
- D(N-II)
- D(AG)
- D(Works)
- D(O-II)
- D(JCM)
- D(HAL)
- D(Med)
- D(Mov)
- D(GS IV)
- D(GS-II)
- D(QS)
- D(QA)
- D(Apptts)
- D(Estt.I/Gp.II)
- CAO(Coord & Welfare)

M of D ID No. 19(4)/824-99/1998 (D/Lab) dated 9th March, 2001

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
23 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

New Delhi 110001
October 9, 1998

OFFICE MEMORANDUM

**Subject:-Scheme for compassionate appointment under the
Central Government - Revised consolidated instructions -**

The undersigned is directed to say that the existing instructions for making compassionate appointment under the Central Government have since been reviewed in the light of the various court judgements and other decisions including those taken on the various recommendations contained in the Fifth Central Pay Commission Report as well as the Study Reports of 1990 and 1994 prepared by the Department of Administrative Reforms and Public Grievances on the subject and they have accordingly been revised/simplified and consolidated as in the enclosed scheme which will supercede all the existing instructions on the subject. This may be brought to the notice of all concerned for information, guidance and necessary action.

(K.K. JHA)

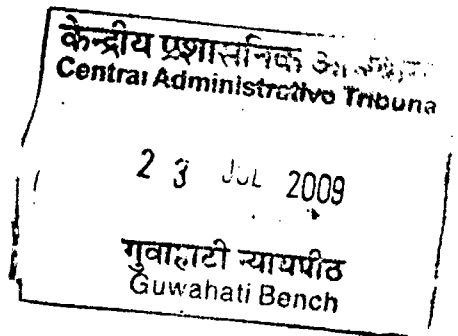
Director(Establishment)

To

All Ministries/Departments of the Government of India

Copy to:-

1. The Comptroller and Auditor General of India
2. The Secretary, Union Public Service Commission
3. Rajya Sabha Secretariat
4. Lok Sabha Secretariat
5. All State Governments/Union Territories Administrations
6. All attached/subordinate offices under the Department of Personnel and Training/Ministry of Home Affairs
7. National Commission for SC/ST, New Delhi
8. National Commission for OBC, New Delhi
9. The Secretary, Staff Side, National Council
10. The Registrar General, The Supreme Court of India
11. The Department of Administrative Reforms and Public Grievances, Sardar Patel Bhavan, New Delhi 110001
12. All Offices/Sections of DOP&T
13. Establishment(D) Section (500 copies)



Telephone: 3375033.

No. 15301/Policy/Org 4(Civ) (a)

16 Jun 99

ADJUTANT GENERAL'S BRANCH
Org 4(Civ) (a)

SCHEME FOR COMPASSIONATE APPOINTMENT UNDER
THE CENTRAL GOVERNMENT - REVISED
CONSOLIDATED INSTRUCTIONS

A copy of Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) OM No. 14014/6 94-Estt(D) dated 09 Oct 98 on the above subject is forwarded herewith for information and necessary action.

Sh. Sharma
(SM Sharma)
CSO
DAAG/Org 4(Civ) (a)

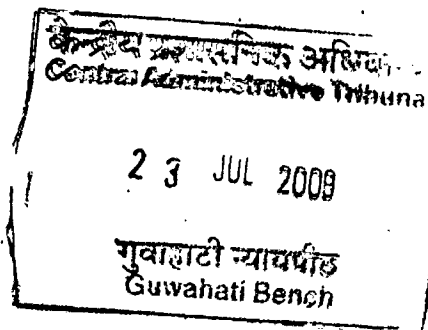
BFB ✓
GS Branch/SD-1
QMG's Branch/QIC
MGO's Branch/S&C/A
EME Civ-3/EME Civ-1
OS-8C/OS-20
E-in-C's Branch/EIC
Rtg Adm
Rtg 5(OR) (B)
Org 8(I of R)
JAG's Deptt
AG/PM
DGMS-3(b)

Copy to :-

MI-19, SD-6R, Arty-3, MT-7, AC-1, MF(Pers), ADA-5, Inf-64
Sigs-4(c), TA-3, DSC-2, ST-8, ST-12, RV-1, NF-1, AGS-2B,
Pars-1 and G Mov D

Internal

Org 4(Civ) (B)



22/7/05-6
2-7-99

25-6-27-28

85

SCHEME FOR COMPASSIONATE APPOINTMENT

1. OBJECT

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

2. TO WHOM APPLICABLE

To a dependent family member —

(A) of a Government servant who —

- (a) dies while in service (including death by suicide); or
- (b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules 1957 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants); or
- (c) is retired on medical grounds under Rule 38 of the CCS(Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group 'D' Government servants); or

(B) of a member of the Armed Forces who —

- (a) dies during service; or
- (b) is killed in action; or
- (c) is medically boarded out and is unfit for civil employment.

Note I "Dependent Family Member" means:

- (a) spouse; or
- (b) son (including adopted son); or
- (c) daughter (including adopted daughter); or
- (d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para,

— who was wholly dependent on the Government servant/ member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be.

.....2/-

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुजराती न्यायपीठ
Gujarati Bench

Note II

"Government servant" for the purpose of these instructions means a Government servant appointed on regular basis and not one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis.

Note III

"Confirmed work-charged staff" will also be covered by the term 'Government servant' mentioned in Note II above.

Note IV

"Service" includes extension in service (but not re-employment) after attaining the normal age of retirement in a civil post.

Note V

"Re-employment" does not include employment of ex-serviceman before the normal age of retirement in a civil post.

3. AUTHORITY COMPETENT TO MAKE
COMPASSIONATE APPOINTMENT

- (a) Joint Secretary incharge of administration in the Ministry/Department concerned.
- (b) Head of the Department under the Supplementary Rule 2(10) in the case of attached and subordinate offices.
- (c) Secretary in the Ministry/Department concerned in special types of cases.

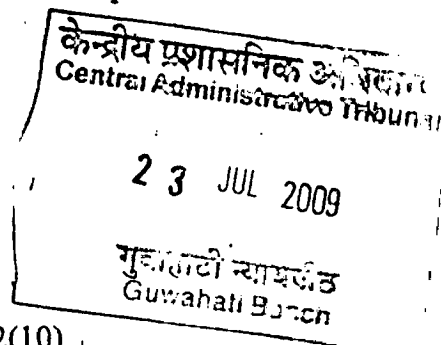
4. POSTS TO WHICH SUCH APPOINTMENTS CAN BE MADE

Group 'C' or Group 'D' posts against the direct recruitment quota.

5. ELIGIBILITY

- (a) The family is indigent and deserves immediate assistance for relief from financial destitution; and
- (b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.

.....3/-



Annexure - XI b3-

30

No 1 Advance Base Stationery Depot
Code-99601
C/O 99 APO

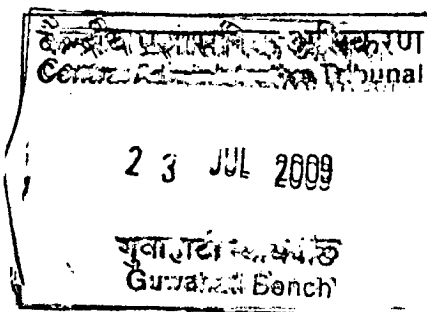
322/PS/CC/Adm(Civ)

20 Nov 2007

Dte Gen of Ordnance Services(OS-8C(II))
Master Gen of Ord Branch
Integrated HQ of MOD (Army)
DHQ : PO : New Delhi-11

WPC NO 2103/2005 FILED BY SHRI PUNU SHARMA
VS UNION OF INDIA AND OTHER

1. The above case has since been decided by the Honourable Guwahati High Court and issued judgement there of.
2. A copy of Honourable High Court Order dated 8/10/2007 received in the depot on 19-11-2007 due to closing of High Court wcf 15-10-20-07 to 12-11-2007 is forwarded herewith for necessary further order please.



(Lokesh Sharma)
Lt Col
Officer Commanding

Copy to :-

HQ Eastern Command
Fort William, Kolkata-21

- for information with a copy of Court Order

HQ 101 Area 'A'
C/O 99 APO

-do-

HQ 51 Sub Area
C/O 99 APO

-do-

HQ 51 Sub Area (Legal Cell)
C/O 99 APO

-do-

64- 31

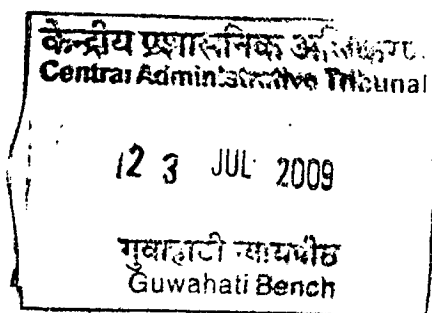
48

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND,
MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND
ARUNACHAL PRADESH)**

W.P.(C) No. 2103/2005

Sri Punu Sharma
Son of Hari Prasad Sharma,
(Ex-employee of No. 1 Adv. Base
Stationery Depot, Narengi),
R/O Cochpara, P.O. – Satgaon,
District – Kamrup, Assam.

.... Petitioner



-VS-

1. The Union of India represented
by Secretary, Ministry of Defence,
Government of India, New Delhi.
2. Commander,
H.Q. Army, Ordnance Corps.,
Eastern Command (ORD)
Fort William, kolkatta – 7800021.
3. Officer Commanding No. 1 Adv. Base
Stationery Dpot, C/o 99 A.P.O.

... Respondents

PRESENT

THE HON'BLE MR. JUSTICE H. N. SARMA

For the Petitioner

: Mr. S. Bhattacharya .
Advocate

89

RECEIVED ON	
23	
210	
HEAD CASE	
VS NO	

23/11
Adm/civ

For the Respondents

Mr. D.K. Dey
C.G.S.C.

Date of Hearing

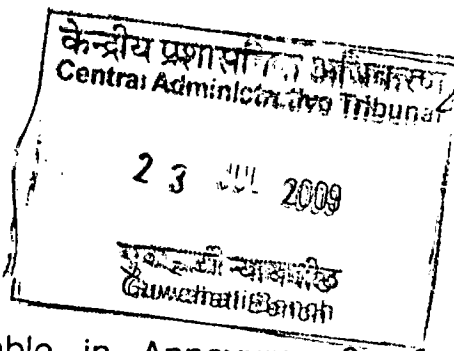
: 8.10.2007

Date of Judgment &
Order

: 8.10.2007

JUDGMENT AND ORDER (ORAL)

1. The grievance raised in this writ petition is the commission of error in considering the claim of the petitioner for appointment on compassionate ground under the respondent office.
2. The father of the petitioner who was serving as watchman under No. 1 Adv. Base Stationery Depot (ABSD for short) Narengi, Assam.
3. The father of the petitioner Hari Prasad Sharma died in harness on 4-6-2000. There is no scheme for appointment on compassionate ground to the dependent members of the family of the deceased who died in harness on 4-6-2000. The said scheme is titled as "Compassionate Appointments of Son/Daughter/near relative of Deceased Government Servants -- Consolidated Instructions." In terms of the said claim the petitioner having passed H.S S.L.C., was duly qualified for appointment in a Group 'D' Post under the respondent authorities applied for such a post on 19-9-2000. In order to select a person for appointment on compassionate ground, which is in deviation from normal rules of appointment, Ministry of Defence has also fixed certain



criteria as available in Annexure- 9 of the Affidavit- in- Opposition. The petitioner was communicated vide order dated 22-1-2002 that his case for employment in relaxation to normal rules was considered for three occasions, but he was not selected due to limited number of vacancies. Similar Communication dated 10-5-2002 was made to the petitioner by the Commanding Officer, ABSD, 99 APO, and vide Communication dated 22-2-2002 sent from the Headquarters Eastern Command (Ord), Fort William, Calcutta -21. The claim of the petitioner is that his case was illegally left out and person with lesser marks than him, as per criteria fixed, having been offered such appointment, the petitioner is also entitled for such appointment and he has been treated with discrimination.

4. The respondent authorities contesting the writ petition has filed a joint counter. It is the case of the respondents that the petitioner's case for employment in relaxation to normal rules have been considered three times, but he could not come within the zone of appointment and as such he could not be appointed.

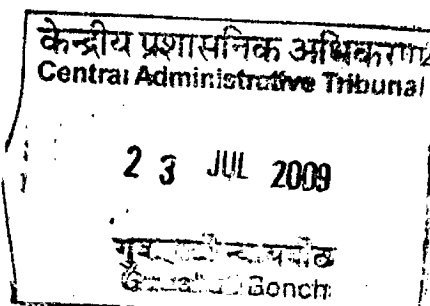
5. Admittedly, the petitioner's claims for appointment is in deviation of normal rules by way of compassionate appointment. Such scheme is implemented by the authorities to provide employment to Sons/Daughters/near relatives of a government servant who has been working for sometime in the department and is a known person to the department. Selection for such appointment is regulated and guided by the scheme referred to above. There is also a specific provision for

allotment of marks under certain gradings on certain fixed criteria. Such marks are provided in considering the candidature of an applicant on points such as – a) Family Pension ; b) Terminal Benefits ; c) Monthly Income of earning member(s) and income from property ; d) Movable/Immovable Property ; e) No. of dependants ; f) No. of unmarried daughters ; g) Number of minor Children ; h) Left over service.

Taking in totality the marks so fixed and allotted to the candidates their cases are considered on individual merit and the candidates getting higher marks are preferred first, considering the availability of vacant post.

6. The respondent authorities have placed before the court such consideration sheet of the petitioner on 3 occasions along with other candidates, for appointment on compassionate ground in Group D post. The first consideration was made by the Selection Board on 20 - 31 January, 2001. In that selection the petitioner was awarded 45 marks and the candidate just above him was awarded 64 marks. On second occasion the matter was considered on 25-5-2001 wherein the petitioner was awarded 63 marks. The third consideration was made on 1-11-2001 wherein the petitioner was awarded 65 marks, in total.

7. From the records produced by the learned counsel for the respondents it is seen that on first consideration wherein the petitioner was allotted 45 marks, the selection authority appears to have deviated from the procedure for awarding marks in terms of the existing guidelines and all the



points that are mentioned in the guidelines have not been provided with to him. However subsequently, the marks allotted to the petitioner rose from 63 and 65 respectively. It is not understood as to how the marks fixed and the same facts which are not variable in nature could change from time to time.

8. It submitted that the petitioner is entitled to get 65 marks by applying the methodology as fixed under the guidelines for consideration of such cases by the authority themselves.

9. From the counter affidavit the stand taken by the respondents it is found that the petitioner not having obtained higher marks than the other appointed candidate, he could not be accommodated. From the record submitted by the department it is seen that the petitioner was not recommended on the first consideration for getting 45 marks. The petitioner as indicated above, was entitled, and in fact later on provided with 65 marks. Thus the marks obtained by the petitioner is higher than the criteria set for such appointment and taking note of the number of vacancies at the relevant time which is 64 marks, the petitioner was entitled for appointment.

10. The above discussion makes it clear that the authorities have committed error in the decision making process and as such the petitioner's case is required to be considered afresh accepting his marks as 65 to which he was found to be entitled under the scheme and guidelines provided

URGENT
BY SPEED POST

for selection of candidates for appointment in Group- D posts under compassionate ground.

11. In that view of the matter, the case is remanded to the authorities to take such appropriate decision in accordance with law within the period of 2(two) months from the date of receipt of a certified copy of this order.

The writ petition is allowed to the extent indicated above.


Sd/- H.N. SARMA
JUDGE

Memo No.HC.XXI.....34, 938-40.....R.M.Dtd. 16/11/07

Copy forwarded for information and necessary action to: -

1. The Union of India, represented by Secretary, Ministry of Defence, Govt. of India, New Delhi.
2. The Commander, H.Q. Army, Ordnance Corps., Eastern Command (ORD), Fort William, Koklatta-780 021.
3. The Officer Commanding No. 1 Adv. Base Stationery Depot, C/o 99 A.P.O.

By Order.


Asstt. Registrar (B)
Gauhati High Court, Guwahati.

15/11/07

Annexure - XII

34

REGISTERED BY SDS

Headquarters

Eastern Command (Ord)

Fort William, Kolkata

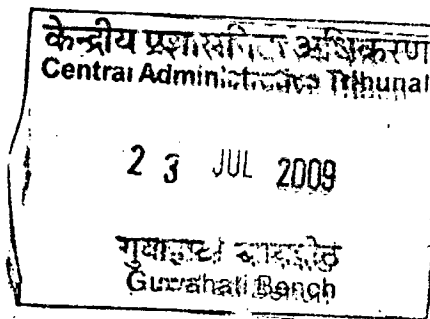
Pin- 908542

C/o 99 APO

01 Dec 07

321914/2/BD 2005-06/06-07/OS-8C

Dte Gen of Ord Services (OS-8C)
Master General of Ord Branch
IHQ of MoD (Army)
New Delhi -110011



EMPLOYMENT IN RELAXATION TO NORMAL RULES WP (C) No 2103 OBLIQUE 2005
FILED BY SHRI PUNU SHARMA SON OF LATE SHRI PRASAD SHARMA EX NO 1 ADV
BASE STY DEPOT NARENGI VS UNION OF INDIA AND OTHERS

1. Please refer IHQ of MoD (Army) Sig No A/23802/BD/-04-05/ EAST COM/OS-8C(i) dated 28 Nov 07.
2. Supplementary Board Proceedings (2004-05) for Group 'D' Post in respect of Shri Punu Sharma Son of Late Hari Prasad Sharma of 1 Adv Base Sty Depot is submitted herewith as per direction of IHQ MoD (Army).

(P Srivastava)
Lt Col
ADOS (Adm)
for MG AOC

Copy to :

HQ 101 AREA (A)
C/o -99APO

HQ 51 SUB AREA
C/o- 99APO

1 ADV Base Sty Depot
PIN -909601
C/o- 99 APO

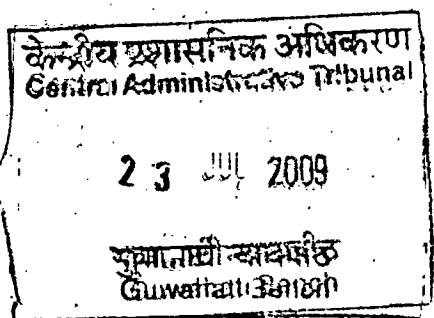
- For info please.

31 5063

Annexure - XIII

35

This is Inbox message



(In lieu of Msg form)

MESSAGE ID : 143

OP IMMEDIATE

FROM : INDARMY (OS-8C)

DTG : 30-JAN-08 23:35:26

UNCLAS

A/23802/BD-04-0 /1ABSD/EC/OS-8C 1

TO : LADY BASE STY DEPOT

INFO : ORD BR HQ EASTERN COMD

EMPLOYMENT IN RELAXATION TO NORMAL RULES: IMPLEMENTATION OF HON'BLE GUWAHATI HIGH COURT ORDER OF OCT 08 LAST YEAR IN WP NO 2103 OF 2005 FILED BY SHRI PANU SHARMA SON OF LATE SHRI HARI PRASAD SHARMA EX EMPLOYEE OF NO 1 ADV BASE STY DEPOT NARANGI () REF EASTCOM LET 321914/2/BD-2005-06/06-07/OS-8C DEC 01 LAST YEAR AND INDARMY SIG A/23802/BD-04-05/1ABSD/EC/OS-8C (I) DEC 19 LAST YEAR () AS PER HON'BLE GAUHATI HIGH COURT ORDER OF OCT 08 LAST YEAR COMMA NAME OF SHRI PUNU SHARMA HAS BEEN CONSIDERED BY THE ANNUAL BOARD HELD ON JAN 17 AND 18 () KEEPING IN VIEW THE LIMITED NUMBER OF VACANCIES AVAILABLE FOR COMPASSIONATE APPOINTMENT AND THE COMPARATIVE MERIT OF THE APPLICANT COMMA HE HAS NOT BEEN RECOMMENDED FOR APPOINTMENT IN GP 'D' POST BY THE BOARD BEING LOW IN MERIT () REQUEST ISSUE INTIMATION LETTER OBLIQUE SPEAKING ORDER TO THE INDL AND APPRISE THIS FACT TO HON'BLE COURT ALSO IN CONSULTATION WITH CGSC IMMEDIATELY TO AVOID CONTEMPT OF COURT UNDER INTIMATION TO THIS HQ () ACK AND CONFIRM () TREAT MATTER URGENT.////

READ BY : DSO (SIGCEN), INDIAN ARMY GUWAHATI SIGCEN

ORIGINATING MESSAGE ID : 1322
ORIGINATING MESSAGE DTG : 30-JAN-08 23:35:23
SIGNED BY : OUT5(SIGCEN), 1. ARMY HQ SIG REGT

Annexure - XIV

No 1 Adv Base Sty Depot
PIN - 909601

C/o 99 APO

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी बेंच
Guwahati Bench

04 Feb 2008

327/PS/CC/Adm (Civ)

To

Shri Punu Sharma
S/o Late HP Sharma
Vill : Satgaon, (Kochpara)
PO : Satgaon, Guwahati 27

EMPLOYMENT IN RELAXATION TO NORMA RULES

This is for your information that as per Hon'ble Guwahati High Court order dt 08 Oct 2007 your name has been considered by the Annual Board held on 17 and 18 Jan 2008. But due to limited number of vacancies available for compassionate appointment and your comparative merit, your case has not been recommended for appointment in Group 'D' post by the board.

(Lokesh Sharma)
Lt Col
Officer Commanding

Annexure - XV

COURT CASE

REGISTERED/SDS

Tele: 2301 8735

Directorate General of Ordnance Services
Master General of Ordnance Branch
Integrated HQ of MOD (Army)
New Delhi-110011

A/23802/BD-04-07/1ABSD/EC/OS-8C (i)

12 Feb 2008

No 1 Adv Base Sty Depot
Pin- 909 601
C/o 99 APO

EMPLOYMENT IN RELAXATION TO NORMAL RULES:
WP NO 2103/2005 FILED BY SHRI PUNU SHARMA S/O
LATE SH HP SHARMA EX-NO 1 ADV BASE S.T.Y DEPOT

1. Reference this HQ Signal of even number dated 30 Jan 2008.
2. In compliance with Hon'ble Gauhati High Court Orders dated 08 Oct 2007, name of Shri Punu Sharma was considered for appointment on compassionate ground for Gp 'D' post (for the fourth time) by the Annual Board of Officers held on 17 and 18 Jan 2008. The Board has not recommended his name for appointment due to his low merit and the limited number of vacancies earmarked for Compassionate Appointment. While, last applicant recommended for appointment has secured 73 points out of 100 points scaling system (prescribed vide MOD ID No. 18(9)/824-99/1998-D (Lab) dt 09th Mar 2001), Shri Punu Sharma has secured 65 points and stands at Srl 171 of the common merit list for Gp 'D' post. It may be relevant to point out that a total of 611 applicants were considered by the board to fill 75 Gp 'D' vacancies required to be filled by Compassionate grounds.
3. You are, therefore, requested to issue Speaking Order in the prescribed proforma, to the indl and apprise this fact to Hon'ble Court (wherever required) in consultation with CGSC immediately to avoid contempt of court under intimation to this HQ.

Copy to:-

HQ Eastern Command (Ord)
Kolkata

HQ 101 Area (A)
C/o 99 APO

HQ 51 Sub Area
C/o 99 APO

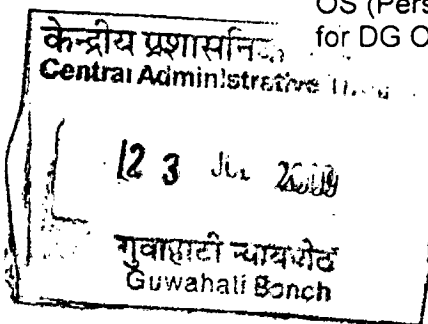
Internal

OS-8C (ii)
(Court Case)

- for info.

- for info.

(SK Jain)
Dy Director
OS (Pers)
for DG OS



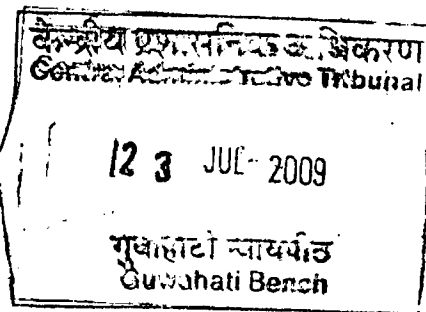
Annexure - XV 71-

38

98

NO : 316/2/PS/CY/Adm(Civ)

Shri Punit Sharma
S/O Late HP Sharma
Vill-Satgaon(Kuchpara)
P.O-Satgaon, Ghy-27



REGISTERED POST/AD
No 1 Advance Base Stationery D
Code-909601
C/O 99 APO

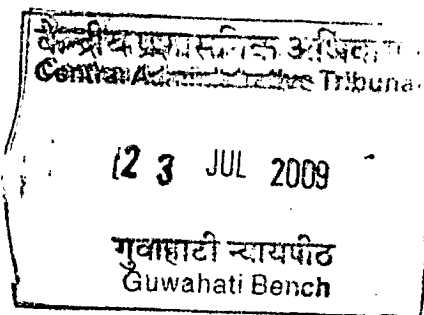
14 Mar 2008

**SPEAKING ORDER : EMPLOYMENT IN RELAXATION TO NORMAL
RULES, WP NO : 2103/2005 FILED BY SHRI PUNIT SHARMA
S/O LATE HP SHARMA OF NO 1 ADVANCE BASE
STATIONERY DEPOT, C/O 99 APO**

1. Reference your application dated 13 Sep 2000 regarding employment on compassionate ground relaxation to normal rules and court case thereof.
2. It is for your information that in compliance with Hon'ble Guwahati High Court orders dated 08 Oct 2007, the Annual Board of Officers held on 17 and 18 Jan 2008 a fresh accepting the point 65 as awarded to you the pre-Annual Board held at HQ Eastern Command on 01 Dec 2007. As per the existing instructions only of direct recruitment vacancies can be filled by compassionate appointment and in the time being the number of candidates (611) much more than the number of vacancies (75) only those who figure at serial No 1 to 75 of common merit list has been offered appointment. Your name was at Serial No 171 of the common merit list Group 'D' post.
3. The Scheme of appointment on compassionate ground has been envisaged with the whole object of grant compassionate appointment to enable the family to tide over the sudden crisis and to relieve the family of deceased from financial destitution and to help it get over the emergency. The Scheme does not necessarily in that dependent of each and every deceased. Every 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. Therefore, all the compassionate appointment requests are considered by the Board of Officers constituted for the purpose as per the Govt Order to find out the most deserving cases which are in acute financial distress more indigent in comparison to similarly placed cases against the 5% of DR vacancies occurring in a given year.
4. To find out the most deserving cases the Board of Officers take the various aspects as stipulated in ID No : 19(1) 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, movable immovable properties left by the deceased at the time of death and recommends only the most deserving cases as per guidelines of marking system approved by the Ministry that too only if clear vacancy for appointment on compassionate ground exists within the ceiling of 5% DR vacancies.

Contd... P2

5. It is further intimated that your request and as per the order of Hon'ble High Court, Guwahati is considered for the fourth time by the Board assembled on 17 and 18 Jan 2008 at Army HQ along with candidates on the basis of criteria laid down to determine relative hardship and limited number of vacancies available, it is not feasible to consider your case again as per existing policy.



(Sanat Kumar AV)
Lt Col
Officer Commanding

N.O.O

Copy to :-

1. Dte Gen of Ordnance Services (08-8C)
Master Gen of Ordnance Branch
Integrated HQ of MoD (Army)
New Delhi-110011

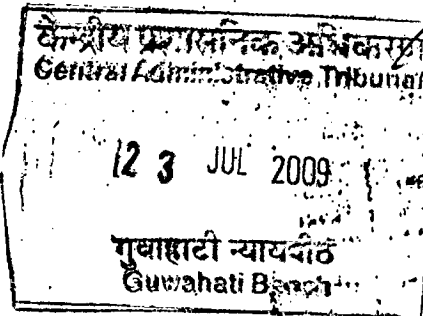
- for information with reference to L.H.Q. letter No : A 238
04-07-1ABSD/EC/OS-8C(i) dated 29 Feb 2008

2. HQ Eastern Command(Ord)
Fort William
Kolkata-21.
Pin - 708542

- for information please.

3. Shri Dipak Kumar Dey
Advocate (CGSC)
Gh. High Court
Guwahati-01

- for information please.



**MOST IMMEDIATE
COURT MATTER**

Ministry of Defence
D(Lab)

Subject : High Court Jammu Order dt 6-11-2001 on COA(SW) 56-E/01
w.r.t. Contempt of Court proceedings - Circulation of.

Reference High Court of Jammu and Kashmir at Jammu Order dated 6-11-2001 on Contempt of Court case No COA(SW) 56-E/01 regarding the position of law on proceedings of Contempt Petition. (Copy enclosed)

2. It is requested that copy of the above High Court Order be circulated among all Units/lower formations for instructing the concerned legal cells/Liaison Officers to take necessary steps to ensure that all the concerned CGSC's are briefed to quote the above subject Court Order in the Counter Reply as Annexure and bring to the notice of the Hon'ble CAT/Courts, the above decision/Order of High Court, Jammu, while defending similar Contempt of Court Cases. Also ensure that the latest Supreme Court rulings and the DOP&T instructions/guidelines and other favourable Court Orders circulated from time to time by this Ministry are incorporated in the Counter affidavits, in detail, in order to ensure similar favourable Court Orders.

3. Treat the matter as "MOST IMMEDIATE".

Encls.: As above.

Army HQrs/AG's Br./MP4(Civ)(b)
Air HQrs/PC-5
Naval HQrs/CP Dte

[Signature]
(S Buchchan)
Section Officer/D(Lab)
Tel : 3015260

MOD ID No 30(24)/CC/2001-D(Lab) dated 11th January, 2002.

74 - (41) =

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU
PRESENT:

THE HON'BLE MR. JUSTICE A.M. MIR-J

COA(SW) 56-E/01

In SWP 264/2000

Nanaji Bhat S/o Sh. Late Prithvi Nath Bhat.
R/O Qtr No.11, Block No.1, Police Quarter,
Channi Himmat, Jammu age 33 years.

- Petitioner -

V/s

1. Sh. Joginder Narayan, Defence Secretary
Govt. of India, New Delhi.
2. Lt. Gen R.K. Nanawati,
MG AOC, HQ, Northern Command,
C/o 56 APO.
3. Col. Ajit Thomas,
21 FAD (Khundru)

- Respondents -

For the Petitioner(s) Mr. Ajay Abrol, Advocate

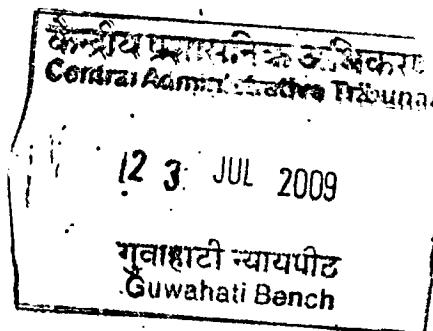
For the Respondent(s) Mr. Nirmal Kotwal, Advocate.

ORAL

This petition has been filed for initiating contempt proceedings against the respondents for having violated the order passed by a Bench of this court on 29-9-2000. The direction issued by the court was to consider the petitioner's case in the light of law laid down by the Supreme Court in the case Sushma Gosain Vs Union of India, reported in AIR 1989 SC 1976.

The grievance of the petitioner is that the order was complied with in breach. The statement of facts has been filed in which it has been contended that in the light of direction of the court the petitioner's case was considered and rejected being not eligible for compassionate appointment.

(Court Seal)



75/ 42 102

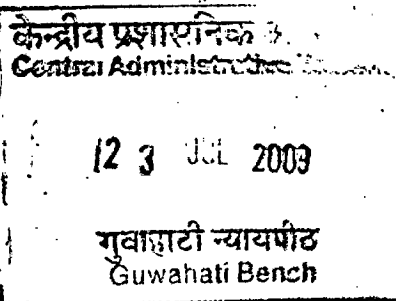
I have gone through the order passed by the respondents on 17-9-2001. Without commenting upon the legality of this order, I confine myself to the limited question as to what's the scope of powers exercisable by this court in contempt proceedings. The position of law has been made clear by the Supreme Court in so many judgements and one of them is Lalith Mathur Vs L. Maheswara Rao, reported in (2000) 10 SCC 285. The ratio laid down in that case is as under:

"4. The High Court in the writ petition has issued a direction for the consideration of the respondent's representation by the State Government. This direction was carried out by the State Government which had considered and thereafter rejected the representation on merits. Instead of challenging that order in a fresh writ petition under Article 226, the respondent took recourse to contempt proceedings which did not lie as the order had already been complied with by the State Government which had considered the representation and rejected it on merits."

In view of this clear position of law I regret my inability to proceed with this contempt petition and dismiss the same, leaving the petitioner open for any relief he may seek against the order passed by the respondents on 17.9.2001.

Sd/-
(Hon'ble Justice A.M. Mir)

Jammu,
06-11-2001.



Certified to be True Copy
(Seal)

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

26 43
**MOST IMMEDIATE
COURT MATTER**

Ministry of Defence
D(Lab)

Subject: CAT Chandigarh Order dt 25-9-2001 on OA No 903/HR/2000
regarding Compassionate App:ntment - Circulation of.

Reference CAT Chandigarh Bench C:der dated 25-9-2001 on OA No 903/HR/2000 regarding the policy for compassionate appointment. (Copy enclosed)

2. It is requested that copy of the above CAT Order be circulated among all Units/lower formations for instructing the concerned legal cells/Liaison Officers to take necessary steps to ensure that all the concerned CGSC's are briefed to quote in the Counter Reply as Annexure and bring to the notice of the Hon'ble CAT/Courts, the above decision/Order of CAT Chandigarh Bench, while defending similar Court Cases. Also ensure that the latest Supreme Court rulings and the DOP&T instructions/guidelines on the subject are incorporated in the Counter affidavits, in detail, in order to ensure similar favourable Court Orders.

3. Treat the matter as "MOST IMMEDIATE".

Encls.: As above.

(S. Euchchan)
Section Officer/D(Lab)
Tel: 3015260

Q3
25/10
50/CA
Army HQrs/AG's Br/MP4(Civ)(b)
Air HQrs/PC-5
Naval HQrs/CP Dte

MOD ID No 30(24)/CC/2001-D(Lab) dated 17 October, 2001.

29/x
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25/CC/01/2CA
29/x

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CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A. No. 68/57/2001

Date of order August 6, 2001

Amarnath, R/o Late Sh. Daulat Ram, R/o Village & Post
Office, Bha. Teh. & Distt. Ambala, Haryana

By Advocate Mr. D.K. Bhatti

Versus

1. Union of India through Secretary,
Ministry of Defence,
New Delhi
2. C.O.C. - In-C, Headquarters, Western Command,
Chandimandir-134107
3. Commanding Officer, Gola Barud Depot,
Dapur-140506.

... Respondents

केन्द्रीय प्रशासनिक
Central Administrative Tribunal
12/8/2001
गुवाहाटी न्यायाधीश
Guwahati Bench

2. Father of the applicant is a retired
under 24, 1971 while in service, working as a
under Commanding Officer, Gola Barud Depot, Dapur. He
applied for appointment on compassionate grounds, but
his request was declined. He has consequently filed the
original application with a prayer that it be declared
that he is eligible for appointment on compassionate
grounds in Group 'D' and to direct the respondents to
appoint him as such.

78 (45)

105

3. On a consideration of the matter, it is found from the reply to the legal notice that applicant applied for appointment on compassionate grounds, but, his request was rejected for the first time on January 19, 1995 and for the second time on September 20, 1995 and for the third and final time on February 9, 1996. It is also clarified by the respondents that one brother of the applicant namely Sh. Shiv Charan Dass is already employed in the Ammunition Depot Dappar as a Mazdoor. The compassionate appointment is provided to a member of the ^{family of the deceased} employee in order to relieve the family of the deceased from financial destitution and to help it get over the emergency. compassionate appointment can not be granted after lapse of a reasonable time.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 Jul 2009

गुवाहाटी बेंच
Guwahati Bench

appointment is not to be granted as a matter of right especially in the case of the applicant.

with no order as to costs.

Certified True Copy/प्रमाणित सत्य प्रतिलिपि

Subinim Sah

गुवाहाटी बेंच (13/8/09) (Judix G.C. ARG)

VICE CHAIRMAN

Tribunal

dated 26 August 6, 2009

Guwahati Bench

23 JUL 2009

चण्डीगढ़ी न्यायपीठ
Chandigarh Bench

79 46 56
MOST IMMEDIATE
COURT MATTER

Ministry of Defence
D(Lab)

Subject : CAT Chandigarh Bench Order on OA No 684/HR/2001
regarding Compassionate appointment - Circulation of

Reference CAT Chandigarh Bench Order dated 06-08-2001 on OA No
684/HR/2001 regarding appointment on compassionate grounds. (Copy
enclosed)

2. It is requested that copy of the above CAT Order be circulated among all
Units/lower formations instructing the concerned legal cells/Liaison Officers to
take necessary steps to ensure that all the concerned CGSC's are briefed to
quote/bring to the notice of the Hon'ble CAT/Courts, the above decision/Orders
of CAT Chandigarh Bench, while defending similar Court Cases. Also ensure
that the latest Supreme Court rulings and the DOP&T instructions/guidelines
on the subject are incorporated in the Counter affidavits, in detail, in order
to ensure proper defence and favourable Court Orders similar to that of cases
under reference.

3. Treat the matter as "MOST IMMEDIATE".

Encls.: As above.

(S) Buchcharan
Section Officer/D(Lab)
Tel : 3015260

Army HQrs/AG's Br./MP4(Civ)(b)
Air HQrs/PC-5
Naval HQrs/CP

MOD ID No 30(24)/331/CC/2001-D(Lab) dated 28th August, 2001

Copy to :-

1. DGAFMS (Coord)
2. DGNCC
3. CGDA
4. DRDO
5. DPR
6. DGDE (Adm.)

7. US(B&C)
8. CAO (Coord)
9. D(Estt./Gp.II)
10. EME (Civ-2)
11. EIC (Legal A)
12. LOS-8C(ii)

80- (47) 107

CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A. No. 685/2001

Date of order August 6, 2001

Amar Nath, s/o Late Sh. Daulat Ram, R/o Village & Post
Office, BOB Teh. & Distt. Ambala, Haryana

By Advocate Mr. D.K. Bhatti

Versus

1. Union of India through Secretary,
Ministry of Defence,
New Delhi

2. G.O.C. -In-C, Headquarters, Western Command,
Chandimandir-134107

3. Commanding Officer, Gola Barud Depot,
Dargapur-140506.

... Respondents

Justice G. S. Rao

Counsel for the applicant has been named as

केन्द्रीय प्रशासनिक न्यायाधीश
Central Administrative Tribunal

12 3 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

2. Father of the applicant died in a car accident
on November 24, 1977 while in service, working as a Major
under Commanding Officer, Gola Barud Depot, Dargapur. He
applied for appointment on compassionate grounds, but
his request was declined. He has consequently filed the
original application with a prayer that it be declared
that he is eligible for appointment on compassionate
grounds in Group 'D' and to direct the respondents to
appoint him as such.

81 48

108

3. On a consideration of the matter, it is found from the ~~copy~~^{to} of the legal notice that applicant applied for appointment on compassionate grounds, but, his request was rejected for the first time on January 19, 1995 and for the second time on September 20, 1995 and for the third and final time on February 9, 1996. It is also clarified by the respondents that one brother of the applicant namely Sh. Shiv Charan Dass is already employed in the Ammunition Depot Dappar as a Mazdoor. The compassionate appointment is provided to a member of the ^{family of the deceased} employee in order to relieve the family of the deceased from financial destitution and to help it get over the emergency. compassionate appointment can not be granted after lapse of a reasonable period and it is not ^a vested right which can be exercised at anytime in future. Father of the applicant in this case died in the year 1993. That is more than 8 years back and the applicant was categorically informed 6 years prior to the filing of the original application that he is not entitled to appointment on compassionate grounds as one of his brothers is already in service in Ammunition Depot Dappar. Policy for compassionate appointment specifically provides that compassionate appointment is not ^{to} be granted as a matter of right and especially to a member of the family of the deceased ^{whose} employee one of ^{his} child is already in service.

4. In view of the above, I see no merit in the original application and the same is consequently dismissed in limine with no order as to costs.

Certified True Cop // प्रमाणित सत्य प्रतिलिपि

Subin Singh

13/8/01
जुज (JUDGE) (JUDIX G.C. ARG)

VICE CHAIRMAN

Tribunal

केन्द्रीय प्रशासनिक
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

①
Tele : 6144

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Mukhyalaya 101 Area
Headquarters 101 Area
C/O 99 APO

14064/OS-8B

23
Aug 2001

222 ABOD

14 FAD

41 Veh Coy

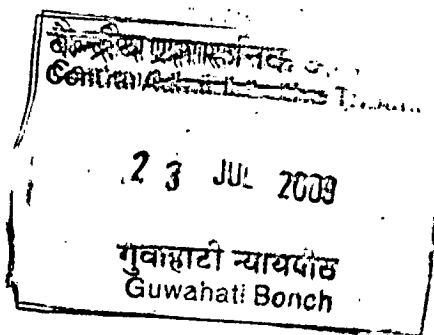
→ 1 Adv Base Sty Depot

SCHEME FOR APPOINTMENT ON COMPASSIONATE GROUNDS

1. A photocopy of DDP&T OM No. 14014/15/99-Est (D) dt 11/19 Jul 2001 alongwith its enclosures received vide HQ Eastern Command letter No 321914/1/445/OS-BC dt 14 Aug 2001 is fwd herewith for your info please.

Encls : (As above)

(S Brahma)
Col
DDOS



83 50 116

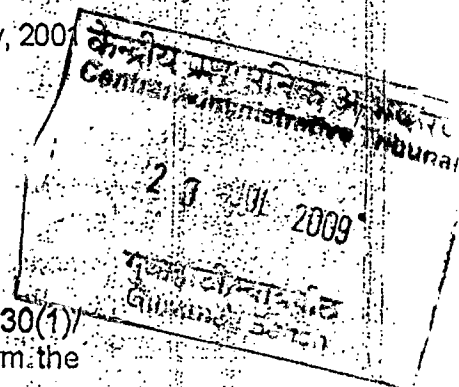
(COPY)
No 14014/15/99-Estt(D)
Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

New Delhi, dated the 11th/19th July, 2001

OFFICE MEMORANDUM

Subject : Compassionate appointment - Clarification regarding



The undersigned is directed to refer to Ministry of Defence O.M. 30(1)/2000/D(Lab) dated the June 29, 2001 on the above subject and to confirm the presumption contained in para 1 therein.

2. Regarding para 2, it is clarified that vacancies for compassionate appointment should be calculated with reference to 5% of DR vacancies in a recruitment year for each post in each Group C/D separately. This is, however, subject to grouping of posts in small Offices/Cadres for this purpose mentioned in this department O.M. No. 14014/24/99-Estt.(D) dated 28-12-1999.

3. In regard to para 3, it is clarified that 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 merits and even if it is found to 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 O.M. dated 22-6-2001 and not otherwise. In this connection, attention is also invited to the ruling of Supreme Court referred to in para 17(d) of our O.M. dated 9-10-98 in the cases of Himachal Road Transport Corporation Vs. Dinesh Kumar [JT 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited Vs. Smt. A. Radhika Thirumalai [JT 1996 (9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.

Sd/-
(K. Muthu Kumar)
Under Secretary

To
Ministry of Defence
(Shri Shinghara Singh)
Deputy Secretary,
New Delhi.

51

(copy)
CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

OA No. 903/HR/2001

Date of Order : 25.9.2001

Coram : Hon'ble Mr. Justice G.C. Garg, Vice Chairman

Gurbachan Singh

Applicant

versus

The Union of India and Others

Respondents

For the applicant

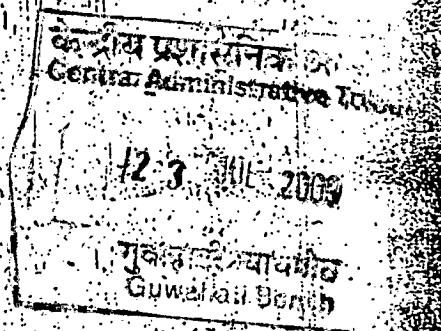
Mr. Vimal Kumar & Mr. S.C. Bakshi,
Advocates

For the respondents

None

ORDER

Justice G.C. Garg, VC



The applicant in this application under Section 19 of the Administrative Tribunal's Act, 1985, is seeking appointment on compassionate grounds. He is aged about 21 1/2 years. The father of the applicant, employed as a Chowkidar in the Office of the Respondent No. 4, died in harness on August 11, 1993. The mother of the applicant had pre-deceased her husband. The case of the applicant is that after the death of his father, he applied for compassionate appointment vide application, Annexure A-5. He again submitted an application for compassionate appointment on May 9, 1997 vide Annexure A-9. He was ultimately informed by a letter at Annexure A-13 that his name came to appear on the waiting list at S.No.1 of the waiting list since March 3, 2001 and as per Policy, his name would be struck off from the waiting list in view of the Policy. The applicant continued to make representations and ultimately approached this Tribunal which directed that the representation of the applicant be disposed of within a period of two months from the date of receipt of the representation. The said representation has now been disposed of by Order dated June 26, 2001, Annexure A-19 on two grounds, namely,

- (i) The application has been moved after long delay, the father of the applicant having died during the year 1993 and that
- (ii) the applicant is already receiving army pension and is himself working as a casual labourer.

23 JUL 2009

गुवाहाटी न्यायाधिक
Guwahati Bench

The learned Counsel appearing on behalf of the applicant contended that the office of the Respondent No. 4 cannot take the advantage of their own wrongs. Once the applicant is found entitled for compassionate appointment, they are duty-bound in law to offer him appointment on compassionate grounds irrespective of the fact that a vacancy had become available or not and whether the Government of India has imposed ban on further recruitments.

On a consideration of the matter and having regard to the facts of the case, it is found that the father of the applicant died during the year 1993. The applicant at that time was about 13 years of age. A period of more than eight years has elapsed. The compassionate appointment cannot be claimed after considerable lapse of time and a vacancy cannot be kept reserved for a ward of a deceased till such time his son or daughter attains majority. Besides, the above, compassionate appointments can be offered within a quota of 5% reserved for such appointments and not beyond that percentage. Compassionate appointment cannot be claimed as a right and can be granted only as per the Policy in that behalf. The very purpose of offering compassionate appointment is to mitigate the hardship caused to the family of the deceased employed on ground of the sudden death of the bread winner. The compassionate appointment is indeed neither a statutory right nor a Fundamental Right. Under the Policy, a compassionate appointment cannot be offered to a member of the deceased family after long delay. This is what has been held by the High Court of Punjab in the case of Pawan Kumar versus State of Haryana and others reported as 2001(2) SLR 650.

In view of the above, the CA is dismissed in writing with no Order as to costs.

Sc-
(G.C. GARG)
VC

Certified True copy
Sd/-
Section Officer(Judl)
CAT Chandigarh Bench
CHANDIGARH

86-1-181 53 119

123 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Ministry of Defence
D(Lab)

Subject : Time limit and revised rules and regulations for the purpose of appointment on compassionate grounds.

The issues raised by various Service HQrs on the subject have been examined by the Ministry in consultation with DOP&T. The following explanations/clarifications in accordance with DOP&T rules and regulations are to be adopted :-

(a) With regard to wait-listing of deserving cases, DOP&T vide OM No 14014/23/99-Estt(D) dated 3-12-1999 (Annexure-I) have clearly brought out that the Committee prescribed for considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% falling under direct recruitment quota in any Group 'C' or 'D' post. The above restriction is in accordance with the Supreme Court ruling (Annexure-II) that appointment on compassionate grounds can be made only if vacancies are available for the purpose. DOP&T have further instructed that, in respect of other really deserving cases, the Committee should only recommend taking up the matter with other Ministries/Departments/Offices of the Government of India to consider those cases for appointment. In this connection, DOP&T have given a yard-stick of poverty line to be applied (Annexure-IV) to determine the financial destitution/penurious condition of the family to decide whether or not a case is really deserving one. It has been brought out that according to the Planning Commission, the poverty line amounts to income below Rs 1767.20 (353.44 x 5) for a family of 5 members per month. Hence, if the yard-stick of poverty line is applied to decide whether or not the pending backlog cases are really deserving cases, the number of really deserving cases would surely be within the ceiling of prescribed 5% quota. Henceforth this criterion should be applied to judge the penurious condition/financial destitution of the family of the concerned government servant for considering the requests from the dependents for compassionate appointment. In view of the above, the system of maintenance of waiting lists be dispensed with since this is causing lot of problems and therefore no cases are henceforth to be waitlisted.

(b) The level of compassion to be quantified to facilitate screening of deserving cases is under consideration of this Ministry.

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Regarding additional 5% vacancies, DOP&T had time and again rejected (Annexures- III & IV) the proposal of this Ministry for an increase in the prescribed 5% quota for compassionate appointments stating that exception to MOD would result in requests of similar nature from other Ministries also.

(d) With regard to one time release of vacancies, it transpires that, in 1992 it was allowed as a one time relaxation to make compassionate appointments against unutilised vacancies reserved for ex-servicemen and physically handicapped, in consultation with DOP&T. Para 7 (d) of the revised Scheme for compassionate appointment (Annexure-VII) specifically brings out that "the ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. sports quota vacancy". The proposal as one time measure, to utilize the vacancies meant for other purposes lying unutilized in order to accommodate the waitlisted candidates was taken up with DOP&T vide OM No 19(1)/2000-D(Lab) dated 22-9-2000 (Annexure-VIII), but the same was not agreed to by DOP&T as intimated vide their reference dated 4-10-2000 (Annexure-IX). In view of the above, no alternative is left but to review all pending cases as per the criterion (Annexure-IV) brought out in para (a) above.

(e) Regarding separate quota for Service Personnel, DOP&T vide OM No 14014/2/97-Estt(D) dated 4/5th March 1998 (Annexure-V) have given their no objection to Ministry of Defence evolving a separate scheme for families of Defence service personnel killed in action for their appointment on compassionate grounds in the non-combatant posts in Armed Forces and Defence Establishments which are not part of civilian posts under the Ministry of Defence as the latter would be covered by the scheme of compassionate appointment operated by this Department.

2. Further, DOP&T have observed that before a decision is taken by the Competent Authority, taking into account among other things the availability of a suitable vacancy within the 5% ceiling for appointment on compassionate grounds, the applicants are sent for Medical examination by the Service HQrs and their cases are referred for verification of character and antecedents. This action of the administration leads the candidates to believe that their cases have been approved for such appointment, whereas the factual position is different and such cases result in Court litigation. Therefore, DOP&T have instructed (Annexure-X) avoiding creation of such a situation and such pre-mature action be avoided in future. Accordingly, Medical examination and Police verification regarding the candidates' antecedents etc. are only to be initiated after the final approval for compassionate appointment by the competent authority is obtained.

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(e) Regarding separate quota for Service Personnel, DOP&T vide OM No 14014/2/97-Estt(D) dated 4/5th March 1998 (Annexure-V) have given their no objection to Ministry of Defence evolving a separate scheme for families of Defence service personnel killed in action for their appointment on compassionate grounds in the non-combatant posts in Armed Forces and Defence Establishments which are not part of civilian posts under the Ministry of Defence as the latter would be covered by the scheme of compassionate appointment operated by this Department.

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3. Further it has come to notice that certain HQrs/Dtes are adopting the method of informing the candidates that their request for compassionate appointment has been placed at a certain Serial No. of Seniority List. Thereafter, on availability of vacancy, no objection/willingness certificates are called for from the candidates, prior to obtaining approval from the competent authority for compassionate appointment to a particular post, giving a misconception of appointment to the candidate. Such practices have invited many Court cases. In view of the above, the candidates' willingness to accept any Group 'C' or Group 'D' posts, irrespective of his educational qualification/status (keeping in view the Supreme Court ruling (Annexure-II) that compassionate appointment is not to cater to the status of the family), should be obtained at the application stage itself. Any type of assurance for appointment on compassionate grounds, before the competent authority approves it, should be avoided in all circumstances.

4. In view of the above DOP&T instructions/policy position and keeping in view the Supreme Court rulings that 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, only the most deserving cases be recommended. Further an early disposal of compassionate appointment cases within the year of request applying the poverty line yard-stick in order to determine the most deserving cases, would avoid unnecessary court cases related to belated rejection, delay in consideration etc.

5. This may be brought to the notice of all concerned upto the Unit/lower formation level for information, guidance and strict compliance.

(Shingara Singh)
Deputy Secretary/D(Lab)
☎ : 3012660

- (i) AG's Br./MP4 (Civ) (a)
- (ii) Naval HQrs/CP Dte.
- (iii) Air HQrs/PC-5

M of D ID No. 19(1)/2000-D(Lab) dated 12th February, 2001.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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**DOP&T INSTRUCTIONS AND SUPREME COURT RULINGS REGARDING
THE SCHEME OF COMPASSIONATE APPOINTMENT.**

(i) 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 harness 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 grounds 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.

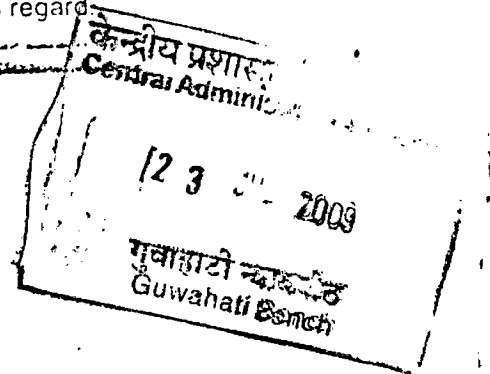
(d) In deserving cases even where there is already an earning member in the family a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment, will satisfy himself that grant 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.

(f) Ministry/Department can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for 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 may be decided with reference to the date of death or retirement on medical ground 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 Office Memorandum 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 its recommendation to appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year in the concerned administrative Ministry/Department/Office, that too within the ceiling of 5% of vacancies falling under DR quota in any Group 'C' or 'D' post prescribed in this regard.



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(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 ~~mean~~ 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 merits and even if it is found to 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 22-6-2001 and not otherwise.

(ii) The Hon'ble Supreme Court of India in its judgement dated April 8, 1993 in the case of Auditor General of India and others vs. G. Ananta 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.

(iii) Further in another judgement dated 4th May 1994 in the case of Umesh Kumar Nagpal Vs State of Haryana and others the Supreme Court has laid down, inter alia, the following important principles in this regard: -

(a) 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.

(b) 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.

(c) 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.

(d) The Government or the Public Authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment the family will not be able to meet the crisis, that job is to be offered to the eligible member of the family.

(e) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future

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**DOP&T INSTRUCTIONS AND SUPREME COURT RULINGS REGARDING
THE SCHEME OF COMPASSIONATE APPOINTMENT.**

(1) DOP&T have envisaged the scheme of compassionate appointment as follows :-

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(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.

(f) Ministry/Department can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back say five years or so. While considering such belated requests it should however, be kept in view that the concept of compassionate appointment is largely related to the need for 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.

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केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

23 " 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

20

(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 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 merits and even if it is found to 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 22-6-2001 and not otherwise.

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(b) 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.

(c) 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.

(d) The Government or the Public Authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment the family will not be able to meet the crisis, that job is to be offered to the eligible member of the family.

(e) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future.

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केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

22

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(e) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future.

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केंद्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
23 JUL 2009
गुवाहाटी बेंच
Guwahati Bench

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ADJUTANT GENERAL SHAKHA/ADJUTANT GENERAL'S BRANCH
MP 4 (Civ)

27 Aug 2009

~~THE OFFICE OF THE ADJUTANT GENERAL~~

1. Reference our Note No. 15301/Policy/Org 4(Civ)(a) dated 24 Dec 1999 circulating DOP&T OM 14014/23/99-Estt(D) dated 03 Dec 1999 prescribing a time limit of [REDACTED]
2. With the circulation of DOP&T OM under reference a doubt has been raised by certain Branches/Dtes as to whether the cases for compassionate appointment pending for over a year should be dispensed with or not. To appreciate the case in proper perspective attention is invited to the DOP&T OM No. 14014/23/99-Estt. (D) dated 03 Dec 1999 circulated by us vide Note No. 15301/Policy/Org 4(Civ)(a) dated 24 Dec 1999, whereby it has been clearly mentioned that as per Supreme Court ruling appointment on compassionate grounds can be made only if vacancies within 5% quota are available. The OM further emphasises the need of providing appointment on compassionate grounds within a period of one year. The instructions should be read alongwith the object of the scheme written in the DOP&T OM No. 14014/6/94-Estt (D) dated 09 Oct 1998. The object of the scheme is to relieve the family of the Government servant who died leaving his family in penury and without any means of livelihood. Although it is not specifically mentioned in any of the instructions that name of the candidates for compassionate appointment may be deleted after one year yet compassionate appointment if not provided within one year, it is implied that there is no point in keeping the individual waiting. Moreover in the meantime fresh cases, some of these being more deserving could also be received. This cycle continues and thus merit of old cases diminishes with the passage of time. Further if the family could sustain for one year and beyond, the compassionate ground no longer exists.

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केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

23 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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Pc [Signature]

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पर्यावरण

GS BRANCH/SD-1.

QMG BRANCH/DIE

1460 BRANCH/SZC(A)

E-IN-C's BRANCH/E COORD I/E1B/E1C.

ORG: B-11 OF R1(C), RTG COORD

AS/PM

JAG'S DEPTT

5-1-32

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

123 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ML - 19, SD - 7 (Adm & Civ), ARTY - 3, MT - 7,
MF (PERS), INF 6 (PERS), SIGS 4 (C), TA - 3,
DSC - 2, ADA - 5, ST - 9, ST - 12, RV - 1,
MF - 2, APS - 28, PMS - 1. Q MOV. 8, OS - BC,
EME Civ-3, Rtg Adm. 1, PMS - 1, PMS - 1, PMS - 1.

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File in Court on... 24/8/09
Court Officer.

95/26

FILED BY

Shri Punu Sharma
Applicant
through Mr. N. S. Sharma
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

IN THE MATTER OF:

O.A. No. 41 of 2009

Shri Punu Sharma

-Applicant

-Vs-

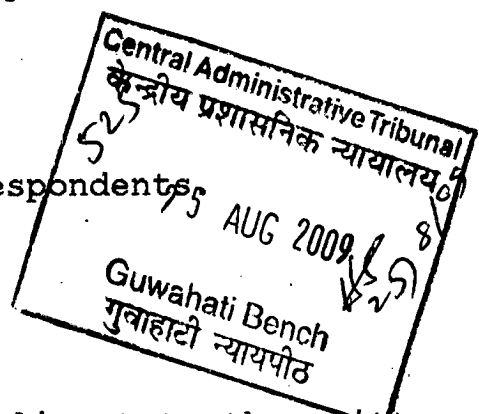
The Union of India & Ors.

-Respondents

- AND -

IN THE MATTER OF:

Rejoinder filed by the Applicant to the written statement submitted by the Respondents.



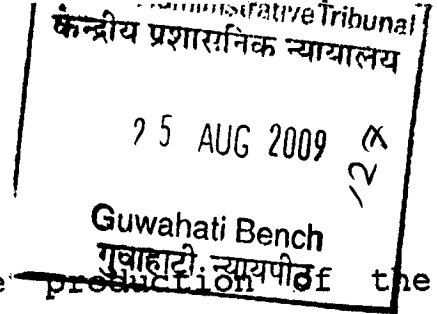
The humble Applicant submits this Rejoinder as follows:

A. That before going to submit the rejoinder to the written statement filed by the Respondents, the Applicant feels necessary to reproduce the relevant portion of the order dated 19.06.2009 passed in the instant O.A. by this Hon'ble Tribunal for kind perusal of this Hon'ble Tribunal-

Received
24/8/09

" . . Respondents should disclose as to how many candidates were there for consideration, how many vacancies were there under DR quota, as to how many vacancies were earmarked for compassionate appointment and as to how much marks were secured by the last candidates offered compassionate appointment on each of the above said three occasions i.e. during January, 2001, on 25.05.2001 and on 01.11.2001. Respondents should production of the records (and comparative merit chart) of those 3 candidates for perusal of this Tribunal.

Punu Sharma

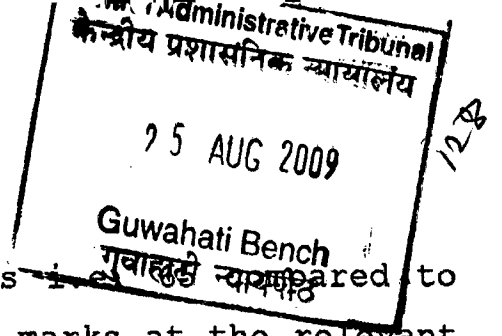


Respondents should also cause production of the records (also comparative chart) pertaining to the considerations given during 17th and 18th January 2008, when 611 candidates were stated to be considered as against 75 vacancies and the Applicant was placed at Sl. No. 171 among 611 candidates."

But in the instant written statement submitted by the Respondents have neither made any attempt to give reply to the queries made by this Hon'ble Tribunal nor they have submitted any authentic relevant Annexures in their written statement to counter the queries made by this Hon'ble Tribunal.

It is also pertinent to mention here that earlier the Applicant has approached before the Hon'ble Gauhati High Court by filing W.P.(C) NO. 2103 OF 2005 for redressal of his grievances. The Hon'ble Gauhati High Court vide its order dated 08.10.2007 passed in W.P.(C) NO. 2103 of 2005 allowed the said Writ Petition in some extent and remanded the case back to the authority to take appropriate decision in accordance with law within the periods of two months from the date of receipt of certified copy of the order. In the aforesaid judgment and order, the Hon'ble Gauhati High Court held that ". the authorities have committed error in the decision making process and as such the petitioner's case is required to be considered afresh accepting his marks as 65 instead of 45 on first consideration i.e. 20-31 January 2001 to which he was found to be entitled under the scheme and guidelines provided for selection of candidates for appointment in Group 'D' posts under compassionate ground." Therefore, it is submitted by the Applicant before this Hon'ble Tribunal that as per the order of the Hon'ble Gauhati High Court the Respondents intentionally deprived the instant Applicant by rejecting his genuine case for compassionate

Puru Sharma



appointment inspite of his higher marks in the written statement compared to the other selected candidates having 64 marks at the relevant time.

1. That with regard to the statement made in paragraphs (a) of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.
2. That with regard to the statement made in paragraphs (b), (c) and (d) of the written statement the Applicant begs to state that the same are false, irrelevant, vague and not sustainable in the eye of law. The instant Original Application No.41 of 2009 is bonafide, justifiable and deserved to be allowed by this Hon'ble Tribunal.
3. That with regard to statement made in paragraph 2 & 3 of the written statement the Applicant begs to offer no comment.
4. That with regard to the statement made in paragraphs 4 of the written statement the Applicant begs to state that the same are false and misleading to this Hon'ble Tribunal. He has passed class XII examination conducted by the Central Board of Secondary Education and due to his father sudden death he could not pursue his further study.
5. That with regard to the statement made in paragraph 5 of the written statement the Applicant begs to state that the same are partly false. The Respondents did not considered the representation submitted by the Applicant in due time inspite of his case was deserving and genuine. The Respondents intentionally also have not produce the records as directed by this Hon'ble Tribunal vide its order dated 19.06.2009. The Respondents intentionally and deliberately have not annexed the comparative chart for consideration of candidates in three occasions. The Respondents have only submitted some vague and irrelevant statements only to avoid the direction

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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
25 AUG 2009
Gauhati Bench
গুৱাহাটী ন্যায়ালয়

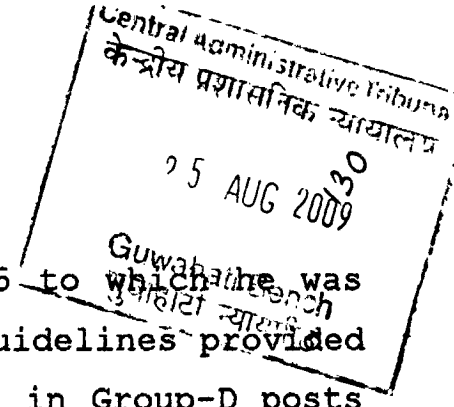
of this Hon'ble Tribunal. It is to be stated that though the Hon'ble High Court vide its order dated 08.10.2007 passed in W.P.(C) NO. 2103 OF 2005 held that the Applicant was entitled for 65 marks instead of 45 marks on first consideration i.e. on 20-31 January 2001 and as such his case is required to be considered afresh accepting his marks as 65 to which he was found to be entitled under the scheme of compassionate appointment but the Respondents intentionally deprived the Applicant by rejecting his case and giving the appointment of less deserving candidates having 64 marks at the relevant time.

6. That with regard to the statement made in paragraph 6 of the written statement the Applicant re-iterates and reaffirms the statement made in paragraph 5 of this rejoinder.

7. That with regard to the statement made in paragraph 7 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.

8. That with regard to the statement made in paragraph 8 & 9 of the written statement the Applicant begs to state that the same are false and not true. It is to be stated that the Hon'ble Gauhati High Court vide its judgment and order dated 8.10.2007 passed in W.P.(C) No.2103 of 2005 (Annexure 8 of the O.A) has observed in paragraph 7 of the judgment that on first consideration the Petitioner (i.e. the instant Applicant) was allotted 45 marks but the Selection authority appears to have deviated from the procedure for awarding marks in terms of the existing guidelines and all the points that are mentioned in the guidelines have not been provided with to him. However, subsequently the Applicant got 63 and 65 marks respectively of the Boards meeting. Moreover in paragraph 10 of the said judgment it is stated that the authorities have committed error in the decision making process and as such the Applicant's case is required to be

Pune Sharma



considered afresh accepting his marks as 65 to which he was found to be entitled under the scheme and guidelines provided for selection of candidates for appointment in Group-D posts under Compassionate ground. But the Respondents in their subsequent proceeding intentionally have not considered the case of the Applicant.

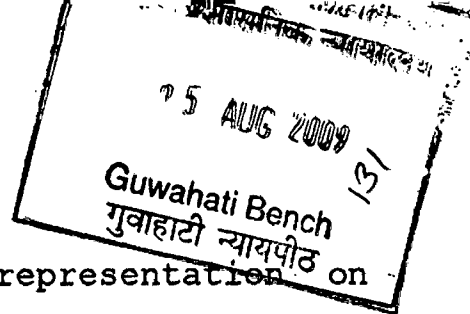
9. That with regard to the statement made in paragraph 10 of the written statement the Applicant re-iterates and reaffirms the statement made in paragraph 8 of this rejoinder. Moreover, the Applicant begs to state that as per the order of the Hon'ble High Court the respondents ought to consider the case of the Applicant case afresh by accepting his marks as 65 to which he was found to be entitled on first consideration wherein he was allotted 45 marks.

10. That with regard to the statement made in paragraph 11 of the written statement the Applicant begs to state that his case is genuine and need to be considered on the facts and circumstances narrated in details in the Original Application No.41 of 2009.

11. That with regard to the statement made in paragraph 12 of the written statement the Applicant begs to state that the same are totally false and misleading to this Hon'ble Tribunal. The only family income of the entire family is the monthly family pension which is not sufficient to maintain the whole family including expenditure of education for his younger brother and sister. Moreover, his sister is now in a marriageable condition. No other member of the family have a Government or semi-government job. The Applicant is willing to accept any kind of job under the Respondent.

12. That with regard to the statement made in paragraph 13 of the written statement the Applicant begs to state that the same are totally false and misleading to this Hon'ble

Puru Sharma



Tribunal. The Applicant submitted his representation on 19.09.2000 for compassionate appointment immediately after his father death. The Respondents are responsible for delay of eight years to look after the Applicant case for compassionate ground. The Respondents also have not consider the applicant case inspite of his case is genuine as per the order dated 8.10.2007 passed in W.P.(C) No. 2103 of 2005 by the Hon'ble Gauhati High Court.

13. That with regard to the statement made in paragraph 14 of the written statement the Applicant re-iterates and reaffirms the statement made in the foregoing paragraphs of this rejoinder.

14. That with regard to the statement made in paragraph 15, 16, 17 and 18 of the written statement the Applicant begs to state that Respondents submitted their written statement without going through the order of this Hon'ble Tribunal. The Respondents instead of furnishing the records called by this Tribunal, made some vague statement and annexed some irrelevant documents in their written statement. The Respondents intentionally have not given the details as how many persons were there, how many vacancies were earmarked for consideration on the three occasions i.e. on 20-31 January 2001, on 25.05.2001 and on 01.11.2001 respectively. The Respondents also fails to produce the records of comparative chart pertaining to the consideration given during 17 & 18 January 2008. Hence it is clear that the Respondents have adopted colourable exercise of power in rejection of the Applicant case and also to accommodate their interested person in place of Applicant.

It is to be stated that though the Hon'ble High Court vide its order dated 08.10.2007 passed in W.P.(C) NO. 2103 of 2005 held that the Applicant was entitled for 65 marks instead of 45 marks on first consideration i.e. on 20-31

Pune Sharma

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Administrative Tribunal
25 AUG 2009
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

January 2001 and as such his case is required to be considered afresh accepting his marks as 65 to which he was found to be entitled under the first consideration for his appointment under the scheme of compassionate ground. In spite of the aforesaid order the Respondents with mala-fide intention and by adopting colourable exercise of power rejected the case of the Applicant.

15. That with regard to the statement made in paragraph 19 of the written statement the Applicant re-iterates and reaffirms the statement made in paragraph 5 and 12 of this rejoinder.

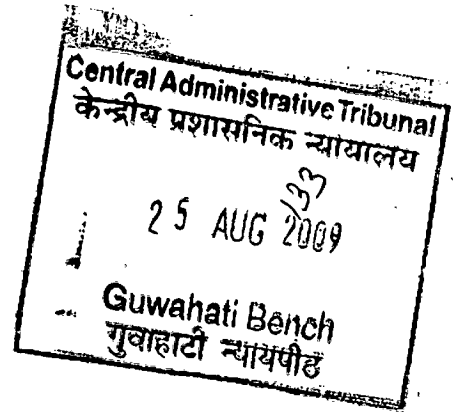
16. That with regard to the statement made in paragraph 20 to 27 of the written statement the Applicant begs to state that the same are false and misleading to this Hon'ble Tribunal. The Respondents intentionally and deliberately appointed some interested candidates of their own by depriving the case of the Applicant. The Respondents in the instant case with mala-fide intention and by adopting colourable exercise of power rejected the case of the Applicant in spite of having higher marks than the persons who were appointed by the Respondents on first consideration i.e. in the month of January 2001.

Therefore, the written statement filed by the Respondents bears no substance, merit and not tenable in the eyes of law and is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicant in the Original Application deserved to be allowed by this Hon'ble Tribunal.

Puru Sharma

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VERIFICATION

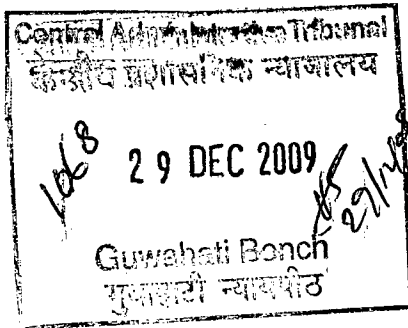
I, Shri Punu Sharma, aged about 26 years, Son of Late Hari Prasad Sharma resident of Satgaon, Kochpara, Post Office- Satgaon, Guwahati-71 do hereby solemnly verify that the statements made in paragraphs. . .1. to 1.6
... are true to my knowledge and information and those made in the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the ^{26th} day of August 2009 at Guwahati.

Punu Sharma

DECLARANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



IN THE MATTER OF

Original Application No.41/2009.

Shri Punu Sharma

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

IN THE MATTER OF

Reply to the rejoinder filed by the

Applicant submitted by the Respondents

No.

IN THE MATTER OF

Production of the records/details in
compliance of the order dated 19.6.09
passed by this Hon'ble Tribunal

That in continuation of the Written Statement filed by the
respondents the answering respondents most respectfully beg to submit as follows

1. That with regard to the Hon'ble High Court orders dated 8.10.2007
for reconsideration of this case a fresh again IHQ vide their letter
No.A/23802/BD-04/07/IABSD/EC(OS-8C) dated 12.2.08 intimated the
undersigned that in compliance with Hon'ble Gauhati High court orders dated
08.10.07 the name of Punu Sharma was considered for appointment on
compassionate ground for GP-'D' (for the forth time) by Annual Board of Officers.



(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

Filed by the Respondent
Through M.V. Ahmed
22/12/09
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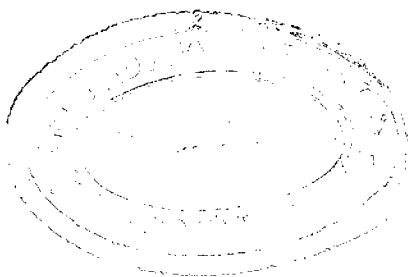
held on 17th & 18th January 2008. The Board has not recommended the name of Punu Shara for appointment due to low in merit and limited number of vacancies earmarked for compassionate appointment, while last candidate recommended for appointment had secured 73 points out of 100 points scaling system (prescribed vide MoD ID No.18(9)/824-99/1998-d(Lab) dated 9.3.2001 Shri Punu Sharma had secured 65 points and stood at Sl. No.171 of the common merit list for Group 'D' post.


2. That with regard to the statements made in para 2 of the rejoinder the reply is as per our previous written statement of (b), (c) and (d) of O.A No.41/09 is justified in the eyes of law and it is not false, irrelevant and vague.

3. That with regard to the statements made in para 3 of the rejoinder the answering respondents do not offer any comment.

4. That with regard to the statements made in para 4 of the rejoinder the answering respondents beg to state that it is not false and misleading to the Hon'ble Tribunal as stated by the applicant. Justification rests with the court.

5. That with regard to the statements made in para 5 of the rejoinder the answering respondents beg to state that it is not partly false. The representation of the applicant was considered in due time. The records has now been enclosed as Annexure-I, II, III and IV as per the order of the Hon'ble Tribunal vide its order dated 19.6.09 for perusal of the court. The above annexure was with the HQ Eastern Command and with IHQ which have been called for later for production before the Hon'ble Court and respondents intentionally and deliberately had not done anything.




(S. K. Singh AV)
Lt Col
Officer Commanding
No 1 Adv Base Stry Depot


6. That with regard to the statements made in para 6 & 7 of the rejoinder the answering respondents do not offer any comment as the details given in para 5 above.

7. That with regard to the statements made in para 8 of the rejoinder the answering respondents beg to state that it is not false. In this connection the authority is enclosed as Annexure-IV and marks was correctly given as per guideline of the Govt. order.

8. That with regard to the statements made in para 9 of the rejoinder the answering respondents beg to state that as per order of the Hon'ble High Court dated 08.10.07 the applicant's case was considered for the fourth time but could not be considered due to more deserving candidates appeared and low in merit as per Govt. order.

9. That with regard to the statements made in para 10 of the rejoinder the answering respondents beg to state that the case of the applicant was favourably considered which are narrated in the Original O.A.No.41/09.

10. That with regard to the statements made in para 11 of the rejoinder the answering respondents beg to state that this is not false. There are evidence that the family have two plots of land measuring 1.5 Katha each at Satgaon Koch Para village and the other plot at Satgaon Bazar area. The family has constructed Assam Type House in both plots of land. At present the family is residing at the Satgaon bazar area plot of land. Over and above the family is earning house rent near about of Rs.4500.00 per month from the rented house of both plot of land. Besides, the family is getting family pension of Rs.3800/- per month. The present market value of the family property would be more than Rs.4,00,000/- (Rupees four lakh) only.


(Sandil Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

11. That with regard to the statements made in para 12 of the rejoinder the answering respondents beg to state that this is not false and not misleading to the Hon'ble Court. The applicant is trying to hide his actual social position and status and misleading to the Hon'ble Tribunal.

12. That with regard to the statements made in para 13 of the rejoinder the answering respondents beg to state that the applicant is trying to misleading the Hon'ble Tribunal by giving false statement.

13. That with regard to the statements made in para 14 of the rejoinder the answering respondents beg to state that the respondents not avoiding Hon'ble Tribunal order rather submitted the all documents now with this rejoinder for perusal of the Court.

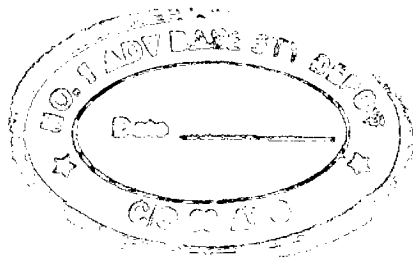
14. That with regard to the statements made in para 15 of the rejoinder the answering respondents beg to state that the details have been given in the counter reply in O.A.N.41/09.

15. That with regard to the statements made in para 16 of the rejoinder the answering respondents beg to state that this is not false and misleading to the Hon'ble Tribunal. The respondents intentionally and deliberately not appointed any interested candidate in his office so far on compassionate ground.

16. Furthermore, it is pertinent to mention here that in compliance of the Hon'ble Tribunal's order regarding production of records (i.e. Board proceedings/comparative chart and list of candidates, the necessary details are appended below, supported by documents/annexures).

BOARD OF OFFICERS FOR SELECTION OF CANDIDATES
ON COMPASSIONATE GROUND

1st BOARD PROCEEDING DATED 20-31 JANUARY, 2001
(COPY ENCLOSED AS ANNEXURE - I)



(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

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29 DEC 2001

Guwahati Bench

How many candidates are there for consideration	How many vacancies are thereunder DR quota	How many vacancies were earmarked for compassionate appointment	How much marks were secured by the last candidate.
1	2	3	4
85 candidates for Eastern Command	No vacancies were Allotted under DR quota due to Govt. ban on Recruitment under DR quota	Group-'C'-03 Nos Group-'D'-09 Nos	The last selected candidate obtained 64 marks, Punu Sharma, the applicant obtained only 45 marks

BOARD OF OFFICERS FOR SELECTION OF CANDIDATES
ON COMPASSIONATE GROUND

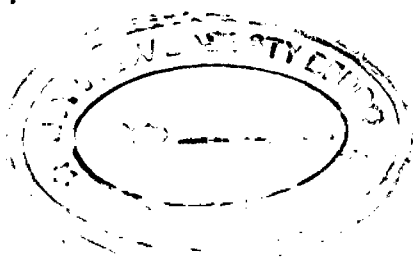
2nd BOARD PROCEEDING DATED 25 MAY, 2001
(COPY ENCLOSED AS ANNEXURE - II)

How many candidates are there for consideration	How many vacancies are thereunder DR quota	How many vacancies were earmarked for compassionate appointment	How much marks were secured by the last candidate.
1	2	3	4
89 candidates for Eastern Command	No vacancies were Allotted under DR quota due to Govt. ban on Recruitment	Group-'C'-02 Nos Group-'D'-04 Nos	The last selected candidate obtained 84 marks, Punu Sharma, the applicant obtained only 63 marks

BOARD OF OFFICERS FOR SELECTION OF CANDIDATES
ON COMPASSIONATE GROUND

3rd BOARD PROCEEDING DATED 01-11-2001
(COPY ENCLOSED AS ANNEXURE -III)

How many candidates are there for consideration	How many vacancies are thereunder DR quota	How many vacancies were earmarked for compassionate appointment	How much marks were secured by the last candidate.
1	2	3	4
52 candidates for Eastern Command	No vacancies were Allotted under DR quota due to Govt. ban on Recruitment under DR quota	Group-'C'-02 Nos Group-'D'-03 Nos	The last selected candidate obtained 70 marks, Punu Sharma, the applicant obtained only 65 marks



(Signature)
(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

29 DEC 2009

Gurukul Ranch
38/11/09

BOARD OF OFFICERS FOR SELECTION OF CANDIDATES
ON COMPASSIONATE GROUND

4th BOARD PROCEEDING DATED 17 & 18th JANUARY, 2008
(COPY ENCLOSED AS ANNEXURE – IV)

How many candidates are there for consideration	How many vacancies are there under DR quota	How many vacancies were earmarked for compassionate appointment	How much marks were secured by the last candidate.
1	2	3	4
611 Applicant/ candidates on all India basis	Vacancies Allotted under DR quota Group 'C' 254 Group 'D' 406	Vacancies Earmarked for Compassionate Appointment Group-'C'-29 Group-'D'-75	The last selected candidate obtained 73 marks, Punu Sharma, the applicant obtained only 65 marks

17. That this reply to the rejoinder filed by the applicant has been made bonafide and for the ends of justice and equity.

Considering the above facts and circumstances your Lordship may be pleased to admit this petition and dismiss the O.A filed by the applicant.

-AND-

For this act of kindness your humble petitioner shall ever pray.

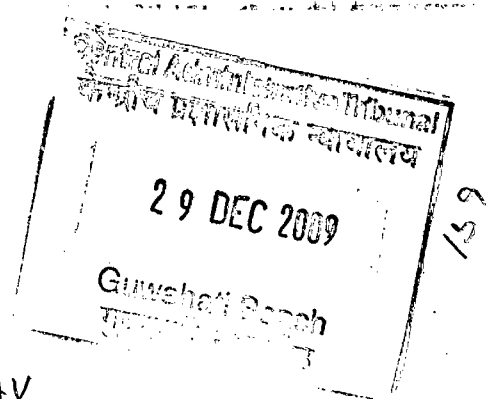


(Sanjay Kumar Aw)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot

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VERIFICATION



I LT COL SANAL KUMAR AV

Son of LATESHARI VISHWANATHAN NAIR MN aged about 50

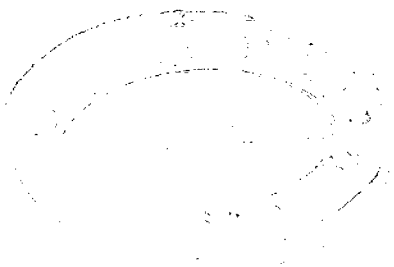
years, resident of A-50 HOSHIR SINGH ENCLAVE, NARENGI MIL CANTT


working as DC NO 1 ADV BASE STATIONERY DEPOT, C/O 99A HO

Duly authorized and competent officer of the answering respondents to sign this verification, do hereby solemnly affirm and verify that the statements made in paras 1 to 15 are true to my knowledge, belief and information & those

made in para 16 being matter of record are true to my knowledge as per the legal advice and I have not suppressed any material facts

and I sign this verification on this _____ day of December, 2009 at




(Sanal Kumar AV)
Lt Col
Officer Commanding
No 1 Adv Base Sty Depot