

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

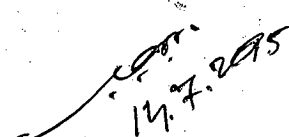
(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/NO.....75.....2009
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

1. Order Sheets.....2.....pg.....1.....to.....3✓.....
2. Judgment/ order dtd 27.11.2009 pg.....1.....to.....6✓.....
3. Judgment & Order dtd.....received from H.C. /Supreme Court.
4. O.A. 75/09.....page.....1.....to.....37✓.....
5. E.P./M.P.page.....to.....
6. R.A./C.P.....page.....to.....
7. W.S. Filed.....Page.....1.....to.....11✓.....
8. Rejoinder Filed.....page.....1.....to.....4✓.....
9. Replypage.....to.....
10. Any other paperspage.....to.....


14.7.2015
SECTION OFFICER (JUDL.)


14.7.2015

✓

-2-

Copies of notices along with order dated 28/4/09 send to Dbee. for issuing to the respondents by regd-A/D post.

15.06.2009

Mr.G.Baishya, learned Sr. Standing counsel files written statement after serving a copy thereof on Mr.N.Ahmed, Advocate for the Applicant; who prays for four weeks time to file a rejoinder.

Call this matter on 21.07.2009 awaiting rejoinder from the Applicant.

(M.R.Mohanty)
Vice-Chairman

/bb/

Cms D/No-2068 to
29/4/09. Dt= 2071
01-5-2009

Notice copies duly served on R-1, 3

21.07.2009

In this case written statement and rejoinder have already been filed. Subject to legal pleas to be examined at the time of final hearing, this case is admitted and set for hearing

Call this matter on 26th August 2009 for hearing. Send Copies to Appt. & Respondts.

(M.K.Chaturvedi)
Member(A)

(M.R.Mohanty)
Vice-Chairman

12.6.09

Notice issued.
No W/S filed.
in

lm

16.6.09

W/S filed by the Respondents. Copy served.
16/6/09

No rejoinder filed.






3
20.7.09

K-Das

Send copy of this order to the Applicant and Respondents.

27/7/09

Cont - page - (2)

| Notes of the Registry | Date | Order of the Tribunal |
|--|------------|--|
| Copies of order dated 21/7/2009 send to D/Sec. for issuing to the applicant and to the respondents by post - D/No - 3951 & 3955 | 26.08.2009 | Call this matter on 09.10.2009 for hearing. |
| 24/7/09. D/No 24/07/08 | 09.10.2009 | <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (M.K. Chaturvedi) Member (A) </div> <div style="text-align: center;">  (M.R. Mohanty) Vice-Chairman </div> </div> <p>Mr. A. Ahmed, learned counsel for the Applicant is present. None appears for the Respondents.</p> |
| 21.7.09 Rejoinder filed by the applicant in the court on 21.7.09 through her L/Advocate. Copy served to the L/Advocate for the Respondents. | 09.10.2009 | <p>Call this matter on 26.11.2009 for hearing.</p> <p>Send copies of this order to the Respondents in the address given in the O.A.</p> |
| The case is ready for hearing. | /bb/ | <div style="text-align: center;">  (M.R. Mohanty) Vice-Chairman </div> |
| 25.8.09 | 26.11.2009 | <p>Heard learned counsel for both sides. Hearing concluded. Judgment reserved.</p> |
| K. Das Send copies of this order to the Respondents. | /pb/ | <div style="text-align: center;">  (Madan Kumar Chaturvedi) Member (A) </div> |
| Copies of order dt. 9/10/09 send to D/Sec. for issuing to the respondents by post. | 27.11.2009 | <p>Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No costs.</p> |
| D/No - 12249 to 12252 25/10/09. D/No 30.10.09 | /bb/ | <div style="text-align: center;">  (Madan Kumar Chaturvedi) Member (A) </div> |
| The case is ready for hearing. | 25.11.09 | |

Notes of the Registry

Date

Order of the Tribunal

Received a copy of
order dated 27 Nov 09
on behalf of Respondent
no 4.

Well

Swiss Reg. No. 12724
01/12/09

Issue vide Memo
No. 12724 to 12728
A-03-12-2009

com
17.12.2009

[Faint, illegible text in the Order of the Tribunal column]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. Nos. 75 of 2009

DATE OF DECISION: 27 -11-2009.

Smt Kiran Kumari Singh

.....Applicant/s

Mr A. Ahmed

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

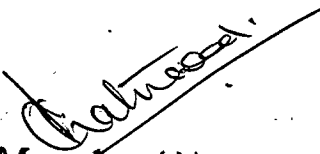
Mr M. U. Ahmed, Addl. C.G.S.C.

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR 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


Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.75 of 2009.

Date of Order : This the 27th Day of November, 2009.

THE HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER(A)

Smt. Kiran Kumari Singh,
 Daughter of Late Ram Prit Singh
 Ex Pump House Operator
 In the office of the Garrison Engineer, Narengi,
 C/o Ram Ashish Singh,
 Quarter No. 219 Army Cantt.
 Satgaon, Narengi, Guwahati-781027.

.....Applicant

By Advocate Mr A. Ahmed.

-Versus -

1. The Union of India
 represented by Secretary
 Govt. of India
 Ministry of Defence
 101 South Block, New Delhi - 110011.
2. The Chief Engineer
 Kolkata Zone
 Military Engineering Services
 Ballygunge Maidan Camp
 Gurusaday Road
 Kolkata - 700019.
3. The Chief Enginner
 Shillong Zone
 Spread Eagle Falls
 Shillong - 793011.
4. The Garrison Engineer
 Narengi
 Post Office - Satgaon
 Guwahati - 781027.

.....Respondents

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

ORDER**M.K.CHATURVEDI, MEMBER(A)**

By this O.A., Applicant makes a prayer to render directions to the respondent to reconsider her case for compassionate appointment in any Group 'D' post under the respondents.

2. Applicant is the elder daughter of Ram Prit Singh who had served as Pump House Operator in the office of the Garrison Engineer, Narengi, Guwahati, respondent No.4. Ram Prit Singh along with his wife expired on 28.1.1993 due to an accidental electric shock while he was serving under Respondent No.4.

3. Consequent upon the demise of her parents applicant submitted a representation with all original documents on 28.1.1995 before the Engineer-in-Chief, Army Headquarters, New Delhi for consideration of her case for appointment under the compassionate ground in any Group 'D' post under the respondents.

4. Getting no response applicant filed 2 representations before the concerned authority for consideration of her case. Respondent No.3 vide his letter dated 7.11.2005 forwarded the application of the applicant along with necessary documents before the Respondent No.2. The aforesaid action was taken by the respondent No.3 after 12 years of submitting of the representation by the applicant. Respondent No.3 vide its order dated 7.11.2007 rejected the case of the applicant for appointment on compassionate ground.

5. Being aggrieved applicant approached before the Tribunal by way of filing O.A.282/2007. The Tribunal heard the matter on



2.5.2008 and directed the respondents to consider her case in the light of existing policy and pass a reasoned and speaking order within a period of 3 months from the date of receipt of the order. The respondent No.3 vide order dated 13.8.2008 informed the applicant that her case is getting attention. Thereafter on 19.9.2008 respondent No.3 informed the applicant that the competent authority rejected her case for compassionate appointment. Again by a speaking order dated 1.10.2008 it was informed that rejection was made due to limited number of vacancies.

6. Mr A.Ahmed, learned counsel appearing for the applicant submitted that the applicant's prayer for compassionate appointment was rejected in a most mechanical manner without giving details of comparative chart, point of marks obtained by the persons who were appointed on compassionate ground preceding the applicant. Mr M.U.Ahmed, learned Addl. Standing counsel appearing for the respondents invited our attention to para 2 and 3 of the speaking order appended with O.A.

"2. Whereas it is prudent to mention here that your case for compassionate appointment was previously examined in detail in ten occasions by the Board of officers convened centrally by HQ CE Shillong Zone, the competent authority during qtr ending Sep. 2001, Mar, Jun 2004, Dec 2005, Mar, Jun, Sep, Dec 2006, Mar and Jun 2007. In all the occasions, Board of Officer after perusing the existing policy of scheme framed and careful consideration of various attributes fixed as mark basis by the Govt. of India such as size of the family including ages of the children amount of family pension, amount of terminal benefits, liabilities in terms of un-married daughters, Minor children etc, occurrence of vacancy vacancy meant for compassionate appointment



within the ceiling of 5% DR Vacancy each year and Hon'ble apex Court ruling dated 4th May 1994 in the case of Umesh Kumar Nagpal vs the state of Haryana and others (JT 1994 (3) SC 525) had recommended rejection of your case for appointment on compassionate ground due to low merit. Accordingly your case for compassionate appointment was rejected by the competent authority of the respondents and decision communicated on 07 Aug 2007 vide this HQ letter No 70201/9/SO/311/EIC(2) dt. 07 Aug 2007 which has been challenged by you vide O.A. 282/2007. The Hon'ble CAT Guwahati has remanded the matter back to respondents for reconsideration the case in the light of existing policy and pass a reasoned and speaking order within a period of three months vide their judgment order date 02 May 2008.

3. Whereas in compliance of the Hon'ble CAT Guwahati judgment and order date 02 May 2008 in O.A. 282/2007 your case for compassionate appointment has been put up to the Board of Officers for reconsideration in BOO quarter ending Jun 2008 in the light of existing policy framed for compassionate appointment inclusive of various attributes fixed on mark basis, occurrence of vacancy meant for compassionate appointment within the ceiling of 5% of DR vacancies released by the higher HQs and the Hon'ble Supreme Court ruling dated 4th May 1994 in a case of Umesh Kumar Nagpal Vs the state of Haryana and others (Jt 1994(3) SC 525) wherein it has been held that "offering appointment on compassionate ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt. servant is legally impermissible and compassionate appointment can not be granted after a lapse of a reasonable period and it is not a vested right which can be exercised at any time in future."

7. At the time of hearing learned standing counsel submitted before us the comparative merit list vis-à-vis the applicant. It was stated that the applicant was minor at the time of demise of her father and on attaining the age of 18 years in 2001 her case was considered by Board of Officers but it was found not to be a deserving case for offering



compassionate appointment due to lack of merit. Merit list was also produced before us and with reference to that applicant's position in this merit list was explained.

8. Learned standing counsel placed reliance on F.No.14014/19/2002-Estt.(D) dated 5.5.2003 issued by DOPT and also on the decision of the Hon'ble Supreme Court rendered in the case of Eastern Coalfields Ltd. Vs. Anil Badyakar and Others 2009, (4) SLR 568 S.C. and Umesh Kumar Nagpal Vs. State of Haryana and others (1994) 4 SCC 138..

9. We have heard the rival submissions. It abundantly clear from records that pursuant to direction issued by the Tribunal, compassionate appointment request was processed as per rules. We have noticed that 5% vacancies were earmarked for the compassionate appointment. The case of applicant was considered on the basis of criteria laid down to determine hardship in limited number of vacancies available. It was found not feasible to consider the request.

10. Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training, vide F. No 14014/19/2002-Estt (D) dated 05th May, 2003 prescribed the time limit for making compassionate appointment. The relevant portion of memorandum is reproduced herein as under:

"The maximum time a person's name can be kept under consideration for offering Compassionate Appointment will be three years, subject to the condition that the Prescribed Committee has reviewed and certified the Penurious condition of the applicant at the end of the first and the second year. After three years, if compassionate appointment is not possible to be offered to the Applicant, his case

will be finally closed, and will not be considered again."

11. Hon'ble Supreme Court in the case of Eastern Coalfields Ltd. Vs. Anil Badyakar and Others 2009, (4) SLR 568 S.C. has held that compassionate appointment is not a vested right which can be exercised at any time in future. Reliance was further placed on the decision of Apex Court rendered in the case of Umesh Kumar Nagpal Vs. State of Haryana and others (1994) 4 SCC 138. In this case, Hon'ble Supreme Court held as under :

"Compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which cannot be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

11. In view of the above, we do not find any merit in the O.A. as such we dismiss it. In the result O.A. stands dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)

22 APR 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. 75 OF 2009.

Smti Kiran Kumari Singh

...Applicant

-Versus-

The Union of India & Others

...Respondents

SYNOPSIS:

The Applicant is the elder daughter of Ram Prit Singh who had served as Pump House Operator in the Office of the Garrison Engineer, Narengi, Guwahati i.e. Respondent No.4. Ram Prit Singh alongwith his wife expired on 28th January 1993 due to an accidental electric shock while he was serving under the Respondent No.4. After death of her parents the Applicant submitted a representation with all original documents on 28.01.1995 before the Engineer-in-Chief, Army Headquarters, New Delhi, for consideration of her case for appointment under the Compassionate Ground scheme in any Group- D post under the Respondents. Getting no response from the authority, she filed two representations before the concerned authority for consideration of her case. The Respondent No.3 vide his letter dated 7th November 2005 forwarded the application of the Applicant along with necessary documents before the Respondent No.2. The aforesaid action was taken by the Respondent No.3 after twelve years of submitting of the representation by the Applicant. The Respondent No. 3 vide its order dated 7th November 2007 rejected the case of the Applicant

किरन कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

for appointment on compassionate grounds, that also after fourteen years of submitting the representation. Being aggrieved the applicant approached before this Hon'ble Tribunal by way of filing an Original Application No.282 of 2007. The Hon'ble Tribunal heard the matter on 02.05.2008 and directed the Respondents to consider her case in the light of existing policy and pass a reasoned and speaking order within a period of time of 3 months from the date of receipt of this order. The Respondent No.3 vide speaking order dated 13.08.2008 informed the Applicant that her case is under consideration. Thereafter on 19.09.2008 the Respondent No.3 amended the order dated 13.08.2008 and informed the applicant that the competent authority rejected her case for compassionate appointment. The Respondent No. 3 again vide Final Speaking order dated 01.10.2008 informed the applicant that the competent authority has rejected the employment assistance to her due to limited number of vacancies. The aforesaid Speaking orders were passed in a most mechanical manner without giving details of comparative chart and point of marks obtained by the persons who were appointed under the Compassionate ground scheme superseding the instant Applicant.

Hence this Original Application is filed for seeking justice in this matter.

किरण कुमारी सिंह

22 APR 2009
गुवाहाटी न्यायापीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 75 OF 2009.

Smti Kiran Kumari Singh

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES

28.01.1993 Applicant parents expired due to
Para 4.2 accidental electrical shock.
Annexure 1

24/3 10.03.1995 Applicant submitted a representation
Para 4.3 before Engineer-in-chief, Army
Annexure 3 Headquarter, New Delhi for consideration
of her appointment on compassionate
grounds scheme.

02.09.2002 The Applicant again submitted a
Para 4.3 representation before the concerned
Annexure 5 authority.

07.11.2005 The Respondent No.3 forwarded the
Para 4.5 representation with documents before the
Annexure 6 Respondent No.3.

07.08.2007 The Respondent No.3 rejected the case of
Para 4.6 the Applicant for appointment under the
Annexure 7 compassionate ground scheme.

02.05.2008 The Hon'ble Tribunal vide its order
Para 4.7 passed in O.A. No. 282 of 2007 directed
Annexure 8 the Respondents to consider the matter in
the light of the existing policy and pass
a reasoned and speaking order within a
period of three months from the date of
receipt of the order.

13.08.2008 The Respondent No. 3 informed the

किरण कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Para 4.8 Applicant that her case has been put up
Annexure 9 to the Board of Officers for
consideration.

19.09.2008 The Respondent No. 3 amended the order
Para 4.9 dated 13.03.2008 and informed the
Annexure 10 applicant that the competent authority
has rejected her case.

01.10.2008 The Respondent No.3 vide Final Speaking
Para 4.10 order informed the Applicant that the
Annexure 11 competent authority has rejected her case
due to non-availability of sufficient
number of vacancies within 5% quota.

Date- 22.04.2009

Filed by

Nuruddin Ahmad

Advocate

विक्रम कुमारी सिंह

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 75 OF 2009.

Smti Kiran Kumari Singh

...Applicant

-Versus-

The Union of India & Others

...Respondents

INDEX

| Sl.No | Particulars | Annexure | Page Nos. |
|-------|---|----------|-----------|
| 1 | Original Application | | 1 to 17 |
| 2 | Verification | | 18 |
| 3 | Copy of Death certificate issued by the East End Nursing Home, Guwahati dated 28.01.1993. | 1 | 19 to 20 |
| 4 | Copy of the Photograph of the parents of the Applicant at the time of their death. | 2 | 21 |
| 5 | Copy of the Representation dated 10 th March 1995. | 3 | 22 to 23 |
| 6 | Photocopy of the representation to the E-IN-CS Br A.H.Q. D.H.Q.-po Delhi-11. | 4 | 24 |
| 7 | Copy of the representation dated 02-09-2002. | 5 | 25 |
| 8 | Copy of the letter No. 80522/2/6134/E1C(2) dated 7 th November 2005. | 6 | 26 |
| 9 | Copy of the letter No.70201/9/SO/311/EIC (2) dated 7 th August 2007 issued by the Respondent No.3. | 7 | 27 to 28 |
| 10 | Copy of the order dated 02.05.2008 passed in O.A. No. 282 of 2008 by this Hon'ble Tribunal. | 8 | 29 to 31 |
| 11 | Copy of the Speaking order No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008 issued by the Respondent No.3. | 9 | 32 to 33 |

किरान कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

8

| | | | |
|----|--|----|----------|
| 12 | Copy of the letter No. 70222/OA-282/2007/21/E1 (Legal) dated 19.09.2008 | 10 | 34 |
| 13 | Copy of the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 issued by the Respondent No.3. | 11 | 35 to 37 |

Date- 22.04.2009

Filed by

Muruddin Ahmad
Advocate

मिशन कुमार सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati BenchIN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

FILED BY

Smti Kiran Kumari Singh
Applicant
through Navuddin Ahmad
Advocate '19(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 75 OF 2009.

BETWEEN

Smti Kiran Kumari Singh
Daughter of Late Ram Prit Singh
Ex-Pump House Operator in the
Office of the Garrison Engineer,
Narengi,
C/o Ram Ashish Singh
Quarter No.219,
Army Cantt. Satgaon
Narengi, Guwahati-781027 ✓

...Applicant

-AND-

1. The Union of India
Represented by the Secretary to
the Government of India,
Ministry of Defence, 101 South
Block, New Delhi
PIN Code -110011. ✓
2. The Chief Engineer
Kolkata Zone
Military Engineering Services
Ballygunge Maidan Camp
Gurusaday Road
Kolkata-700019. ✓
3. The Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong
PIN Code-793011 ✓
4. The Garrison Engineer
Narengi
Post Office- Satgaon
Guwahati
PIN Code-781027. ✓

...Respondents

किरण कुमारी सिंह

DETAILS OF THE APPLICATION

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

The Application is made against the impugned speaking order No. 70222/O.A.-282/2007/54/E1(Legal) dated 13.08.2008, Amendment Order No. 70222/O.A-282/2007/21/E1(Legal) dated 19.09.2008 and Final Speaking Order No.70201/9B/SO/14/E1C (2) dated 01.10.2008 issued by the Office of the Respondent No.3 whereby Applicant's appointment on compassionate ground has been rejected.

2) JURISDICTION OF THE TRIBUNAL:

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

3) LIMITATION:

The Applicant declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal 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 as such she entitled to all rights and privileges guaranteed under the Constitution of India. She is now aged about 29 years.

विरण कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

4.2) That your Applicant begs to state that she is the elder daughter of Ram Prit Singh who had served as a Pump House Operator under the Office of the Garrison Engineer, Narengi, Guwahati-27 i.e. the Respondent No.4. Ram Prit Singh was expired on 28th January 1993 due to accidental Electric Shock along with his wife on the same day while he was serving under the Office of the Respondent No.4. At the time of his death he left behind his two minor daughters i.e. the instant Applicant and her younger sister Smti. Ranju Kumari who were aged about 11 years and 7 years respectively.

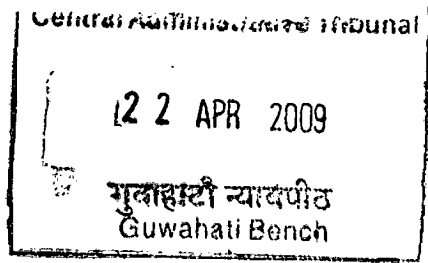
Copy of death certificate issued by the East End Nursing Home, Guwahati dated 28.01.1993 is annexed herewith and marked as ANNEXURE-1.

Copy of the Photograph of the parents of the Applicant at the time of their death along with the Applicant is annexed herewith and marked as ANNEXURE-2.

4.3) That your Applicant begs to state that after the death of her father and mother, she submitted a detailed representation on 10.03.1995 along with all original documents before the Engineer-in-Chief, Army Head Quarters, DHQ-PO, New Delhi-11 for consideration of her case for appointment on Compassionate Grounds. Thereafter, getting no response she filed two representations before the concerned authority for consideration of her case.

Copy of the Representation dated 10th March 1995 submitted by the

रंजु कुमारी सिंह



applicant is annexed herewith and marked as ANNEXURE-3.

Copy of the representation to the E-IN-CS Br A.H.Q. D.H.Q.-po Delhi-11 is annexed herewith and marked as ANNEXURE-4.

Copy of the representation dated 02-09-2002 is annexed herewith and marked as ANNEXURE-5.

4.4) 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.

4.5) That your Applicant begs to state that the office of the Respondent No.3 vide its letter No.80522/2/6134/E1C(2) dated 7th November 2005 forwarded the Application along with the connected documents before the Respondent No.2. It is to be stated that the Respondent No.3 forwarded the aforesaid application after a lapse of more than

किरण कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

20

12 (twelve) years of the expiry of Applicant's parents.

Copy of the letter No.80522/2/6134/E1C(2) dated 7th November 2005 issued by the Office of the Respondent No.3 is annexed herewith and marked as ANNEXURE-6.

4.6) That your Applicant begs to state that the Office of the Respondent No.3 vide its letter No.70201/9/SO/311/EIC (2) dated 7th August 2007 informed her that due to limited number of vacancies her claim for appointment on compassionate ground has been rejected. It is to be stated that the Respondent No.3 rejected the application of the Applicant whimsically and without application of proper mind.

Copy of the letter No.70201/9/SO/311/EIC (2) dated 7th August 2007 issued by the Respondent No.3 is annexed herewith and marked as ANNEXURE-7.

4.7) That being aggrieved with the rejection order dated 07.08.2007, she approached before this Hon'ble Tribunal by way of filing an Original Application No. 282 of 2007. The Hon'ble Tribunal heard the matter on 02.05.2008 and was pleased to pass an order by directing the Respondents to reconsider the matter in the light of existing policy and pass a reasoned and speaking order within a period of three months from the date of receipt of this order.

Copy of the order dated 02.05.2008 passed in O.A. No.282 of 2007 by this

विमल कुमार सिंह

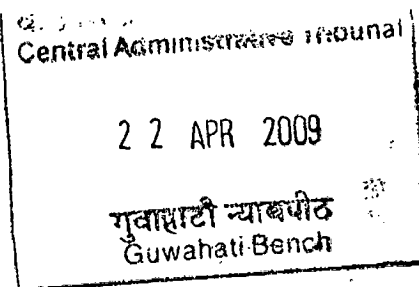
Hon'ble Tribunal is annexed herewith and marked as Annexure 8.

4.8) That your Applicant begs to state that the respondent No.3 vide Speaking order No.70222/OA-282/2007/54/E1(Legal) dated 13.08.2008 informed the applicant that in compliance of the judgment and order dated 02.05.2008 passed in O.A. No. 282 of 2007 by the Hon'ble CAT Guwahati her case for compassionate appointment has been put up before the Board of Officers for reconsideration in BOO quarter ending Jun 2008 in the light of existing policy. It is also informed that after completion of process of quarter ending June 2008, position will be intimated to her through letter by this HQ.

Copy of the Speaking order No. No.70222/OA-282/2007/54/E1(Legal) dated 13.08.2008 is annexed herewith and marked as Annexure 9.

4.9) That your Applicant begs to state that thereafter the office of the respondent No.3 vide its letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 informed the applicant about the amendment of the para 04 of the order dated 13.08.2008. In the amended order it has been stated that her case has been again considered as per Hon'ble CAT direction by Board of Officers during quarter ending Jun 2008. After due circumspection and consideration in the light of guidelines of DOP&T and various judgments of Hon'ble Supreme Court that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case

किरण कुमार सिंह



including the decision of the Board of Officers, the competent authority has rejected the employment assistance to her on compassionate grounds.

Copy of the letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 is annexed herewith and marked as Annexure-10.

4.10) That your applicant begs to state that the Respondent No.3 vide its Final Speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 rejected the case of her for appointment on compassionate grounds.

It is to be stated that in para 7 of the aforesaid order it has been stated that after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgments of the Hon'ble Supreme Court and that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of the Board of officers at Army Headquarters, the competent authority has rejected the employment assistance to Smt. Kiran Kumari D/O Late Ram Prit Singh on compassionate grounds, (due to non-availability of sufficient vacancy within 5% quota).

Copy of the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 issued by the Respondent No.3. is annexed herewith and marked as Annexure 11.

4.11) That your Applicant begs to state that the Respondent NO.3 in the Speaking order dated

किरण कुमारी सिंह

22 Apr 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

13.08.2008, in the amended letter dated 19.09.2008 and the Final Speaking order dated 01.10.2008 intentionally have not given the details about the number of vacancies on compassionate ground quota under them since the year 1995 to till date. The Respondents have not given the name of persons who were appointed on compassionate ground by the Respondents and the details of comparative merit list with marks of the other candidates who had superseded the instant Applicant. The Respondents are totally silent about the point of mark obtained by the Applicant under the scheme of compassionate Ground appointment.

4.12) That your Applicant begs to state that she being the elder sister has to look after her only sister who is now aged about 23 years. There is no other source of income like agricultural, business etc. from where they can earn their livelihood. They are living at the mercy of their relatives who are helping them since the expiry of their parents. Now the relatives are not inclined to help further to them as they are overburdened with financial constrain. Due to acute financial conditions both of them are in verge of starvation.

4.13) That your Applicant begs to state that her father Late Ram Prit Singh, Ex-Pump House Operator, rendered his service under the Respondent No.4 with sincerity and devotion to his duty till his death.

4.14) That your Applicant begs to state that she is suffering from mental depression due to rejection of her case for appointment on compassionate grounds by the Respondents in any

किशन कुमार सिंह

22 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

27X

Group-D post in spite of being that her 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. It is worth to mention here that unfortunately both the parents of the Applicant died in a tragic death on the same day when they are only aged about 11 years and 7 years respectively.

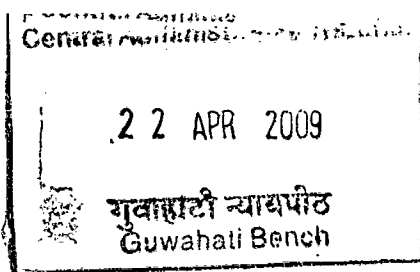
4.15) That your Applicant begs to state that for last 14 (fourteen) years she is on expectation that her case for appointment on compassionate grounds will be considered by the Respondents. Now, she is frustrated due to rejection of her case by the Respondents.

4.16) That your Applicant begs to state that non-appointment of the Applicant on compassionate ground by the Respondents have deprived the Applicant from her fundamental rights guaranteed under the Constitution of India.

4.17) That the Applicant humbly submits that the applicant has right to live and right to work as well as to avail the benefit of compassionate appointment which has been taken away by the Respondents and have violated the rights of the applicant enshrined under the Constitution. Hence, the action of the Respondents is illegal, arbitrary, mala-fide. As such, it is a fit case for immediate interference by this Hon'ble Tribunal.

4.18) That your Applicant submits that she is running from pillar to post for appointment on compassionate ground. As such it is a fit case to

किरण कुमारी सिंह



be interfered by this Hon'ble Tribunal by setting aside and quash the Impugned speaking order dated 13.08.2008 and the Final Speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 issued by the Respondent No.3 and the Hon'ble Tribunal may be pleased to direct the Respondents to reconsider the Applicant's case for compassionate appointment in any Group-D post.

4.19) That your Applicant submits that her case should be considered for immediate appointment in any Group-D post under the Respondents.

4.20) That the Applicant demanded justice and the same has been denied to her.

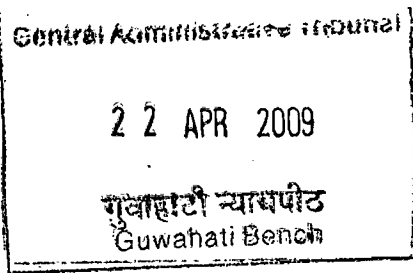
4.21) That this application has been filed bona fide to secure the ends of justice.

5) GROUND FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala fide, arbitrary and without jurisdiction. Hence, the Impugned Speaking Order No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 issued by the Respondent No.3 are liable to be set aside and quashed.

5.2) For that, the Hon'ble Tribunal vide its order dated 02.05.2008 was pleased to direct the respondents to reconsider the case of the applicant in the light of existing policy and pass a reasoned and speaking order within a period of

১৭২০৭ জুমাৰী তিহি



three months from the date of receipt of the order. But the respondents whimsically and without applying proper mind pass the speaking order vide No.70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008. Hence the same are liable to be set aside and quashed.

5.3) For that, the Respondents for the reasons best known to them, in their impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 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 with point of marks who were considered in the panel for appointment under the compassionate grounds. Moreover, the Respondents are totally silent about the point of marks obtained by the applicant under the scheme of Compassionate grounds appointment. It appears that the Respondents have suppressed the real facts from the Applicant. As such, the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.4) For that, while rejecting the case of the Applicant for compassionate appointment on the

ন
কুমারী সিং

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 her 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 speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 is passed with an oblique motive and therefore, the same are liable to be set aside and quashed.

5.5) For that, the Respondents have rejected the claim of the Applicant after 16 years of submitting the Representation for compassionate appointment. Moreover, after 12 years the Respondents had placed the Representation of the Applicant before the competent Authority. Hence, the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.6) For that, due to negligence and lashes on the part of the Respondents the Applicant cannot be allowed to suffer. Hence, the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

कि २ न कुमारी सिद्धे

22 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

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

5.8) For that, it is not just and fair to deprive the Applicant from getting appointment on compassionate ground by the Respondents. Hence the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.9) For that, the Central Government being a model employer cannot be allowed to take lackadaisical attitude to the Applicant. Hence the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.10) For that, the Applicant case is genuine and pitiable as the both parents were expired on the same day leaving behind their two minor children. Hence, the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated

किरण कुमारी सिंह

72 APR 2009
 Guwahati Bench
 70222/OA-282/2007/21/E1(Legal)

13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.11) 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 speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 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 speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2) dated 01.10.2008 are liable to be set aside and quashed.

5.13) For that, the Respondents have committed mental torture on the Applicant for last 16 years without her fault. Hence, the impugned speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No. 70201/9B/SO/14/E1C(2)

किरण कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

dated 01.10.2008 are liable to be set aside and quashed.

5.14) For that, similarly situated persons have already got the benefits of appointment on compassionate ground. As such the Respondents should also consider the case of the Applicant.

5.15) 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 leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of the instant application.

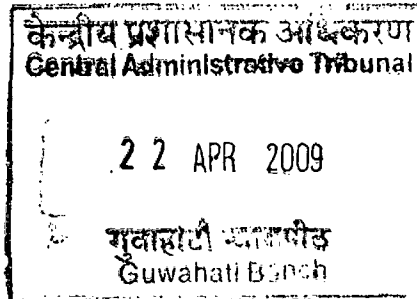
6) DETAILS OF REMEDIES EXHAUSTED:

That the Applicant declares that she has exhausted all the remedies available to her and there is no alternative and efficacious remedy available to her except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the Applicant further declares that she 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 of suit is pending before any of them.

विक्रम कुमारी सिंह



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 speaking order vide No. 70222/OA-282/2007/54/E1(Legal) dated 13.08.2008, letter No. 70222/OA-282/2007/21/E1(Legal) dated 19.09.2008 and the Final speaking order No.70201/9B/SO/14/E1C(2) dated 01.10.2008 issued by the Office of the Respondent No.3.

8.2) The Hon'ble Tribunal may be pleased to direct the Respondents to re-consider the case of the Applicant for compassionate appointment a fresh in any Group 'D' post under the Respondents.

8.3) To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.4) To pay the cost of the application.

किशन कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench9) 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 for compassionate appointment till disposal of this instant Original Application.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. :- 69F 351164, 69F 351165, 69E 999152
Date of Issue :- 20.04.2009
Issued from :- Guwahati G.P.O.
Payable at :- Guwahati.

12) LIST OF ENCLOSURES:

As stated above.

Verification

किरन कुमारी सिंह

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati BenchV E R I F I C A T I O N

I, Smti Kiran Kumari Singh aged about 26 years, Daughter of Late Ram Prit Singh, Ex-Pump House Operator, MES No. 224892, Resident of Quarter No 219 Army Cantt. Post Office-Satgaon, Narengi, Guwahati - 27 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2 (Partly), 4.3, 4.4, 4.11 to 4.16 are true to my knowledge, those made in paragraph nos. 4.2 (Partly), 4.5, 4.6, to 4.10. 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 22nd day of April 2009

किरन कुमारी सिंह
DECLARANT

Phone : 50334

22 APR 2009

38

EAST-END NURSING HOME

G. N. B. Road, Bamunimaidam

Guwahati-781021

गुवाहाटी न्यायपीठ
Guwahati Bench

Ref. No.
Mr. Rampisit Singh
Mrs. Mrs. Ram Das Rampisit Singh

C/O Electric shock
injury - at 7 AM, 28/1/93

U/E pupil dilated & fixed
pulse
B.P. / not recordable
Chest. no breath sounds
crs - S₁ & S₂ not heard
No other external injury seen

A Death due to cardiac
respiratory failure due to
electrocution

28/1/93

Dr. BISSEWAR
BAMUNIMATARY

Ry. No. 11929

Time . 7.30 AM.

Medical Officer,
East-End Nursing Home
Bamunimaidam, Guwahati-21

28/1/93

ATTESTED

(M)

ADVOCATE



केन्द्रीय प्रशासनिक न्यायपीठ
Central Administrative Tribunal

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

ATTESTED

ADVOCATE

(Typed Copy)

ANNEXURE--

From: Miss Kiran Kumari
D/o Late R.P. Singh
C/o AGE E/M Narengi
To : Engineer-in-Chief
Army Head Quarters
DHQ-PO, New Delhi
Pin-11

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
22 APR 2009
गुवाहाटी ब्याचपीठ
Guwahati Bench

(Through Proper Channel)

APPLICATION FOR COMPASSIONATE GROUND APPOINTMENT
TO THE RELATIVE OF THE GOVERNMENT SERVANT

R/Sir,

I have the following few lines for your kind consideration and favorable action please: -

- (a) That Sir, my father Late Ram Prit Singh who was PHO of GE Narengi, expired on 28-1-93 due to electric shock. My mother had also the same cause of death on the same date. So, I had lost two lives at the same moment and become helpless since we did not have any other means of income except the salary of my deceased father.
- (b) That Sir in view of the above, I being the elder daughter of my family to take the responsibilities, I request your honour to be kind enough to give appointment in this department so as to look after my family members.

For this act of kindness I shall remain ever grateful to you.

Thanking you sir,

Yours faithfully,

Sd/-

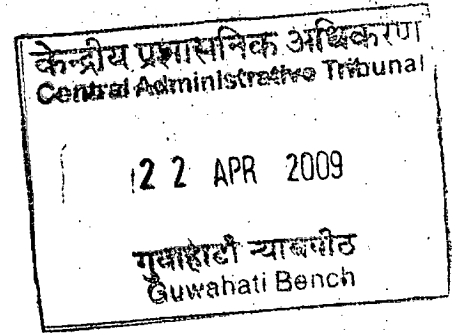
(Kiran Kumari)

Daughter of Late Ram Prit Singh,
PHO

Dated: 10 March 95

ATTESTED
M
ADVOCATE

ANNEXURE--



From : Miss Kiran Kumari
D/O Late R. P. Singh,
C/O AGE S/M Harangi

To : Engineer-in-Chief
Army Headquarters
DHQ- PO, New Delhi
Pin - 11

(Through proper channel)

APPLICATION FOR COMPASSIONATE APPOINTMENT
TO THE RELATIVE OF THE GOVT SERVANT

R/sir,

I have the following few lines for your kind consideration and favourable action please :-

(a) That sir, my father Late Ram Prit Singh who was PHO of GA Harangi expired on 28-1-93 due to Electric shock. My mother had also the same cause of death on the same date. So I had lost two lives at the same moment and become helpless since we did not have any other means of income except the salary of my deceased father.

(b) That sir, In view of the above, I being the elder daughter of my family to take the responsibilities, I request your honour to be kind enough to give appointment in the department so as to look after the family members.

For this act of kindness I shall remain ever grateful to you.

Thanking you sir,

Yours faithfully,

कुमारी किर्न कुमारी
(Kiran Kumari)
Daughter of
Late Ram Prit Singh,
PHO

Dated: 10 May 09

ATTESTED

ADVOCATE

ANNEXURE-- 4 27

ANNEXURE--

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

22 APR 2009

गुवाहाटी न्यायालय
Guwahati Bench

TO

The E-IN-C; s Br

A.H.Q

D.H.Q -po
Delhi -11

From, KIRAN KUMARI SINGH

E/O ANIL KUMAR SINGH

VILL -CHHAHUN

POT -JHANKAUL

Dist - KUSHINAGAR U.P .

SUBJ- PRAYER FOR COMPASSIONATE APPOINTMENT

R

Respected sir .

With due respect i beg to lay the following few lines for your kind information and favourable action please .

my father i.o..MES /224892 late ramprit singh was working in the A.C. E/M under garison engineer narangi division guwahati 27 as a pump house oprator .he met with an electrical and accident alongwith my mother .det 28/01/93 .

i have received all financial benefit due to but action to appoint me . on compassionate ground to be finalised in the contect i will would like to bring to your notice that i hade applied for the same as long back as april 93 my application by garison engineer narangi division their letter no .

1010/ 1/316/ EED DET ~~12~~* 12/11/96 but out com it may not be way to mantion that i have a minor sister also and in these hard day it very dificult to pull on with the meager pension that i receive .

in view of the above fact may i request your good self to issue or pass on orders to the extent of the consideration of my appointment of compassionate ground . wich act of kindness i shall ever remain grate ful .

Encl as above (A) deth cirtificate (B) deth body pfoto copy .

thanking you

copy to

defence minister

to the persnol secretary

yours fith fully

किरण कुमारी सिंह
kiran kumari singh

ATTESTED

ADVOCATE

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

22 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

ANNEXURE-- 5

ANNEXURE--

From: Kumari Kiran Singh
C/O Anil Kr Singh
Vill-Chhahon
P.O. Jhankouli
Dist- Kushi Nagar(UP)

To

E-in-C's Branch
Army Headquarters
DHQ-P.O
Delhi - 11

2-9-02

SUB: PRAYER FOR COMPASSIONATE APPOINTMENT

Respected Sir,

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

- (a) My father i.e. MRS/224892 Late Ram Prit Singh was working in the office of the Garrison Engineer, Narangi, Guwahati-27 as a Pump House Operator. He met with an electrical accident and expired on 28-01-93 alongwith my mother.
- (b) I have received all the financial benefit due to me. But action to appoint me on compassionate ground is yet to be finished. In this context I would like to bring to your notice that I had applied for the same as long back as Apr 1993. My application was also forwarded to CME Shillong by GE Narangi vide their letter No 1010/1/316/SD dt 12-11-96, but the outcome of the same is not known till date.
- (c) It may not be out of the way to mention that I have a minor sister also and in these hard day it is very difficult to pull on with the meagre pension that I received.

In view of the above fact may I request your goodself to issue or pass on orders to the competent authority to expedite the consideration of my appointment on compassionate ground, for which act of kindness I shall ever remain grateful.

Thanking you.

Yours faithfully,

कुमारी किरन सिंह

(Kumari Kiran)
Daughter of Late Ram
Prit Singh

Encl: Death cert
Dead body photo copies

Stn : Narangi

Dated: 2 Sep 02

Copy to :-

The Personal Secretary
to the Defense Minister
DHQ-P.O
Delhi - 110011

ATTESTED

ADVOCATE

- 26 -

ANNEXURE-- 6
ANNEXURE--

Tele : 6777 (Mily)
2474-2153 (Civ)

REGISTERED POST
AN ISO 9001:2000 ORGANISATION
Chief Engineer Kolkata Zone
Military Engineer Services
Ballygunge Maidan Camp
Gurusaday Road
Kolkata - 700019

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
22 APR 2009
गुवाहाटी ब्याचपीठ
Guwahati Bench

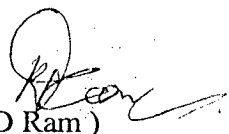
80522/2/ 6134 /EIC(2)

07 Nov 2005

Chief Engineer Shillong Zone
SE Falls, Shillong-11

**COMPASSIONATE APPOINTMENT IN RESPECT OF MISS KIRAN KUMARI D/O
LATE RAMPRIT SINGH PHO, OF GE NARANGI**

1. Original application in respect of Miss Kiran Kumari received by this zone erroneously is forwarded herewith along with connected documents for your further action please.
2. Please ack.


(K D Ram)
AO-II
AAD (Pers)
for Chief Engineer

Encls :- (As above)

(06 sheets)

Copy to -


Garrison Engineer Narangi
Satgaon Post, Guwahati-27

- for information.

Miss Kiran Kumari
D/O Late Ramprit Singh
Vill: Chhahun ,PO: Jhankaul
PS: Turkpati, Dist: Deoria(UP)

- for information.

ATTESTED


ADVOCATE

Tele Milly : 6721

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati BenchHQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 11

07 Aug 2007

70201/9/SO/ 11 /E1C(2)

Miss Kiran Kumari
D/O (Late) Ram Prit Singh
Vill : Chhahun
Post : Jhankul
Dist : Deodria Padarauna
(UP)

Shen?

EMPLOYMENT ASSISTANT IN RESPECT OF MISS KIRAN KUMARI
D/O (LATE) RAMPRIT SINGH OF GE NARANGI
ON COMPASSIONATE GROUNDS

1. Reference your application dated 10-03-1995 regarding employment on compassionate grounds. The request (representation) for compassionate appointment was examined by the competent authority of the Headquarters as per extant Government Rules and Policies and the Hon'ble Supreme Court rulings on the subject. The relevant DOP & T instructions and Hon'ble Supreme Court rulings on the subject are enclosed. ?

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

3. Accordingly, the Board of Officers take the various aspects as stipulated in MOD ID No 19(4)/824-99/1998-D(Lab) dated 9-3-2001, such as family size including ages of children amount of terminal benefits, amount of family pension, liability in terms of unmarried daughter(s), minor children etc., movable/immovable properties left by the deceased at the time of death, to find out the cases of acute financial distress/ most deserving case in relative merit and recommends only the really deserving cases that too if clear vacancy meant for appointment on compassionate grounds exists within the ceiling of 5% DR vacancies. Further, the Committee considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% prescribed for the purpose, in view the Hon'ble Supreme Court ruling in Judgement dated 4th May 1994 on the case of Umesh Kumar Nagpal Vs State of Haryana and others (JT 1994 (3) SC 525) wherein it has been held that "Offering appointment on compassionate ground as a matter of course irrespective of financial condition of the family of the deceased or medically retired govt. servant is legally impermissible and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future".

ATTESTED

ADVOCATE

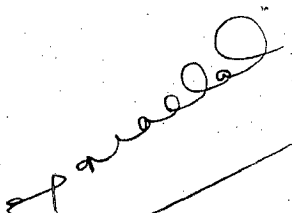
केन्द्रीय प्रशासनिक अपील
Central Administrative Tribunal
22 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

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

(a) The death of the Government Servant occurred on 28 Jan 1993. His wife, 02 daughter survive him. The deceased govt servant's family received Rs 57,413/- as terminal benefits. At present they are in receipt of monthly pension of Rs 1,275/-.

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

6. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgements of the Hon'ble Supreme Court and that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of the Board of officers at Army Headquarters, the competent authority has rejected the employment assistance to Miss Kiran Kumari D/O (Late) Ram Prit Singh on compassionate grounds, (*due to non-availability of sufficient vacancy within 5% quota).


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

Encis : (As above)

Copy to :-

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

HQ Eastern Command - For information
Engineers Branch
Fort William
Kolkata

CWE Shillong,

GE Narangi

ATTESTED

ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

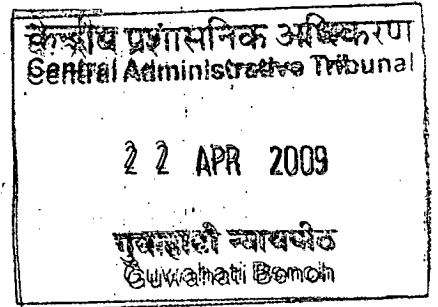
Original Application No.282 of 2007

Date of Order: This the 2nd Day of May, 2008.

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

Smti Kiran Kumari Singh
Daughter of Late Ram Prit Singh
Ex-Pump House Operator
MES No.224892
C/O Ram Ashish Singh
Quarter No.219
Army Cantt.Satgaon
Narangi,
Guwahati-781027

Applicant



By Advocate Mr.A.Ahmed

-Versus-

1. The Union of India,
Represented by the Secretary to the Government of India,
Ministry of Defence,
101 South lock,
New Delhi-1

2. The Chief Engineer
Kolkata zone
Military Engineering Services
Ballygunge Maidan Camp
Gurusaday Road
Kolkata-700019

3. The Chief Engineer
Shillong Zone
SE Falls
Shillong-11

4. The Garrison Engineer, Narangi
Post Office-Satgaon
Guwahati-781027

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

ATTESTED

ADVOCATE

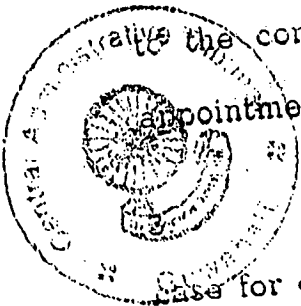
केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
22 APR 2009
गुवाहाटी ब्याचपीठ
Guwahati Bench

ORDER (ORAL)

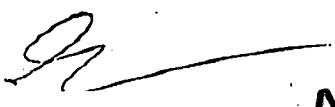

KHUSHIRAM MEMBER(A)

Heard Mr.A.Ahmed learned counsel appearing for the Applicant and Mr.G.Baishya learned Sr.Standing Counsel appearing for the Respondents.

In this case the Respondents in Para 7 of their written statement have stated that "because of non-availability of some relevant document to decide the case of the Applicant as the Applicant failed to furnish them and took a long time to furnish them." The case of the Applicant could not be considered because of lapse of the reasonable period and they rejected the claim of the Applicant on compassionate ground. The Respondents have not stated as to what documents the Applicant failed to submit on sufficient reasons. In the written statement it has also been sated that the case of the Applicant was considered by the Respondents with reference to the regular financial support of family pension, terminal benefits as well as immovable assets available with the Applicant's family and have come to the conclusion that the Applicant's case is not a fit case for appointment on compassionate ground.



From these facts it is not clear whether the Applicant's case for compassionate appointment has been considered on three occasions consecutively, as per policy of the Government? Since it is not apparent whether the case of the Applicant has been considered according to the policy for compassionate appointment, the Respondents are directed to reconsider the matter in the light of


ATTESTED

ADVOCATE

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

31-

29

3

existing policy and pass a reasoned and speaking order within a period of three months from the date of receipt of this order.

Accordingly the matter stands disposed of. No costs.



Sd/-
Khushiram
Member (A)

LM

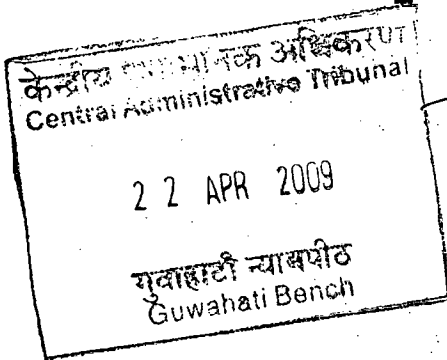
Date of Application : 8.5.08
Date on which copy is ready : 8.5.08
Date on which copy is delivered : 8.5.08
Certified to be true copy

[Signature]
Section Officer (Judl)
C. A. T. Guwahati Bench
Guwahati.

[Signature] 8/5/08

ATTESTED

[Signature]
ADVOCATE



32 -

ANNEXURE-- 9 95

SPEEKING ORDER

Tele : 6706 (Mil)
FAX : 0364-2536282
G- mail : Shillongengrs @ gmail.com

REGISTERED POST

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-11

70222/OA-282/2007/ 54 /E1 (Legal)

13 Aug 2008

Smt Kiran Kumari Singh
D/O Late Ram Prit Singh
Ex-Pump House Operator
C/O Ram Ashish Singh
Qtr No 219, Army Cantt.
Satgaon, Narangi, Guwahati-781027

OA NO 282/2007 FILED BY SMT KIRAN KUMARI SINGH D/O LATE RAM PRIT SINGH, EX PUMP-HOUSE OPERATOR VS UOI AT CAT GUWAHATI

Dear Sir,

1. Whereas you have preferred a OA No 282/2007 in the Hon'ble CAT Guwahati challenging the legal validity of our speaking order regarding rejection of your case for compassionate appointment communicated by this HQ vide letter No 70201/9/SO/311/E1C(2) dated 07 Aug 2007. The Hon'ble CAT Guwahati vide judgment and order dated 02 May 2008 has directed to respondent department for re-consideration of your case in the light of existing policy and pass a reasoned and speaking order within a period of three months from the date of receipt of this order. Para 3 & 4 of the judgment order dt 02 May 2008 are re-produced below :-

Para 3. From these facts it is not clear whether the Applicant's case for compassionate appointment has been considered on three occasions consecutively, as per policy of the Government? Since it is not apparent whether the case of the Applicant has been considered according to the policy for compassionate appointment, the Respondents are directed to reconsider the matter in the light of existing policy and pass a reasoned and speaking order within a period of three months from the date of receipt of this order.

Accordingly the matter stands disposed of. No costs.

2. Whereas it is prudent to mention here that your case for compassionate appointment was previously examined in detail in ten occasions by the Board of officers convened centrally by HQ CE Shillong Zone, the competent authority during qtr ending Sep 2001, Mar, Jun 2004, Dec 2005, Mar, Jun Sep, Dec 2006, Mar and Jun 2007. In all the occasions, Board of Officer after perusing the existing policy of scheme framed and careful consideration of various attributes fixed as mark basis by the Govt of India such as size of the family including ages of the children amount of family pension, amount of terminal benefits, liabilities in terms of un-married daughters, Minor children etc, occurrence of vacancy meant for compassionate appointment within the ceiling of 5 % DR Vacancy each year and Hon'ble apex Court ruling dated 4th May 1994 in the case of Umesh Kumar Nagpal vs the state of Haryana and others (JT 1994(3) SC 525) had recommended rejection of your case for appointment on compassionate ground due to low merit. Accordingly your case for compassionate appointment was rejected by the competent authority of the respondents and decision communicated on 07 Aug 2007 vide this HQ letter No 70201/9/SO/311/E1C(2) dt 07 Aug 2007 which has been challenged by you vide OA 282/2007. The Hon'ble CAT Guwahati has remanded the matter back to respondents for reconsideration the case in the light of existing policy and pass a reasoned and speaking order within a period of three months vide their judgment order date 02 May 2008.

ATTESTED

ADVOCATE

Contd..2/-

Central
22 APR 2009
গুৱাহাটী ব্যাগীৰ
Guwahati Bench

3. Whereas in compliance of the Hon'ble CAT Guwahati judgment and order date 02 May 2008 in OA 282/2007 your case for compassionate appointment has been put up to the Board of Officers for reconsideration in BOO quarter ending Jun 2008 in the light of existing policy framed for compassionate appointment inclusive of various attributes fixed on mark basis, occurrence of vacancy meant for compassionate appointment within the ceiling of 5% of DR vacancies released by the higher HQs and the Hon'ble Supreme Court ruling dated 4th May 1994 in a case of Umesh Kumar Nagpal Vs the state of Harayana and others (Jt 1994(3) SC 525) wherein it has been held that " offering appointment on compassionate ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt servant is legally impermissible and compassionate appointment can not be granted after a lapse of a reasonable period and it is not a vested right which can be exercised at any time in future".

4. After completion of process of quarter ending Jun 2008, position will be intimated to you through letter by this HQ.

5. With the issue of this Speaking order, the judgment order dated 02 May 2008 of the Hon'ble CAT Guwahati in OA No 282 of 2007 stands implemented.

Yours faithfully,

(Ravi Sinha)
SE
Dir (Pers & Legal)
For Chief Engineer

Copy to :-

Dte Gen/E1C (Legal-C)
Engineer-in-Chief's Br
Integrated HQ of MOD (Army) - for info please
Kasahmior House, DHQ PO
New Delhi-110011

HQ Chief Engineer - for info please
Eastern command
Fort William
Kolkata-21

CWE Shillong

GE Narangi

ATTESTED

ADVOCATE

21
 Tele : 6706 (Mil)
 FAX : 0364-2536282
 G-mail : Shillongengrs. @ gmail.com

REGISTERED POST

HQ Chief Engineer
 Shillong Zone
 Spread Eagle Falls
 Shillong-11

केन्द्रीय प्रशासनिक अधिकार
 Central Administrative Tribunal

22 APR 2009

19 Sep 2008

गुवाहाटी न्यायापीठ
 Guwahati Bench

70222/OA-282/2007/ 21 /E1 (Legal)

Smt Kiran Kumari Singh
 D/O Late Ram Prit Singh
 Ex-Pump House Operator
 C/O Ram Ashish Singh
 Qtr No 219, Army Cantt
 Saigaon, Narangi, Guwahati-781027

OA NO 282/2007 FILED BY SMT KIRAN KUMARI SINGH D/O LATE RAM PRIT SINGH, EX PUMP HOUSE OPERATOR VS UOI AT CAT GUWAHATI

Dear Sir,

1. Please refer to this HQ letter Speaking order No 70222/OA-282/2007/54/E1(Legal) dated 13 Aug 2008.

The following amendments are hereby ordered in Para 04 of our above referred letter :-

For : After completion of process of quarter ending Jun 2008, position will be intimated to you through letter by this HQ.

Read : Your case has been again considered as per Hon'ble CAT direction by board of officers during quarter ending Jun 2008. After due circumspection and consideration in the light of guidelines of DOP&T and various Judgments of Hon'ble Supreme Court that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of the board of officers, the competent authority has rejected the employment assistance to Smt Kiran Kumari Singh D/O Late Ram Prit Singh on compassionate grounds.

3. All other entries of above referred Speaking Order will remain unchanged.

Yours faithfully,

Ravi Sinha
 (Ravi Sinha)

SE
 Dir (Pers & Legal)
 For Chief Engineer

Copy to :-

Dte Gen/E1C (Legal-C)
 Engineer-in-Chief's Br
 Integrated HQ of MOD (Army) - for info please
 Kasahmior House, DHQ PO
 New Delhi-110011

HQ Chief Engineer - for info please
 Eastern command
 Fort William
 Kolkata-21

CWE Shillong

GE Narangi

ATTESTED

(Signature)
 ADVOCATE

- 35 -

ANNEXURE-- 11

FINAL SPEAKING ORDER

Tele Mily : 6706

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribuna

22 APR 2009

गुवाहाटी न्यायापीठ
Guwahati Bench

REGD BY POST/SDS

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 11

70201/9B/SO/ 14 /E1C(2)

01 Oct 2008

Smt Kiran Kumari Singh
D/O Late Ram Prit Singh, Ex PHO
C/O Ram Ashish Singh
Quarter No 219
Army Cantt, Satgaon
Narangi, Guwahati - 781 027

EMPLOYMENT ASSISTANT IN RESPECT OF SMT KIRAN KUMARI D/O
S/O (LATE) SHRI RAM PRIT SINGH, EX PHO OF GE NARANGI ON
COMPASSIONATE GROUNDS

1. Reference your application dated 10-03-1995 regarding employment on compassionate grounds. The request (representation) for compassionate appointment was examined by competent authority of the Headquarters as per extant Government Rules and Policies and Hon'ble Supreme Court rulings on the subject. The relevant DOP & T instructions and Hon'ble Supreme Court and CAT Guwahati Bench Court rulings on the subject are enclosed.
2. The Scheme of appointment on compassionate grounds has been envisaged with the object of granting compassionate appointment to enable the family to tide over the sudden crisis to relieve the family of the deceased from financial destitution and to help it get over the emergency. The scheme does not necessarily imply that dependent of each and every deceased/member boarded out/missing Govt employee will be offered appointment on compassionate grounds. It is pertinent to mention here that quota prescribed for the purpose of compassionate appointment is 5% DR vacancies occurring in a year in Group 'C' and 'D' posts and therefore no case is considered individually of Unit wise, but all the cases received from various Units are considered by the Board of Officers constituted at the Headquarters as per the Government Policy, to find out the most deserving cases in acute financial distress/more indigent in comparison to other similarly placed cases, within the 5% quota of DR vacancies occurring in a given year.
3. Accordingly, the Board of Officers take the various aspects as stipulated in MOU No. 19(4)/824-99/1998-D(Lab) dated 9-3-2001, such as family size including ages of children and terminal benefits, amount of family pension, liability in terms of unmarried daughter(s), minor children, etc., movable/immovable properties left by the deceased at the time of death, to find out the most deserving cases in acute financial distress/ most deserving case in relative merit and recommends only those deserving cases that too if clear vacancy meant for appointment on compassionate grounds is available within the ceiling of 5% DR vacancies. Further, the Committee considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancies on compassionate grounds and it should recommend appointment on compassionate grounds only if a clear vacancy is available within a year, that too within the ceiling of 5% prescribed for the purpose, in accordance with Hon'ble Supreme Court ruling in Judgement dated 4th May 1994 on the case of Umesh Kumar Vs State of Haryana and others (JT 1994 (3) SC 525) wherein it has been held that "appointment on compassionate ground as a matter of course irrespective of financial condition of the family of the deceased or medically retired govt. servant is legally impermissible and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future".

P/2

ATTESTED
ADVOCATE

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

(a) The death/MBO/Missing of the Government Servant occurred on 28-01-1999. His 02 daughters (s) survive him. The deceased(MBO/Missing) govt servant received Rs 1,30,788 as terminal benefits. At present they are in receipt of pension of Rs 1,275/-.

(b)* The family owns Land (property)(land) worth Rs - with income of Rs _____ p.a. and house (flat) worth Rs _____/- to live in.

(c) The Annual income earning member(s) irrespective of living together or separate) is employed and earning Rs 850/- per month.

(d) Part of the terminal benefits received by the family has been invested for meeting the expenses of (unmarried daughter etc).

(e) The government servant's daughter(s) is/are married off. The family does not have any liabilities of marriageable daughters and minor school going children etc.

5. Your case has again considered in the Quarter Ending Board Jun 2008.

6. The Board of Officers at Army Headquarters after taking into account each as above has considered your case alongwith other candidates. However, due to more and few vacancies available, your case was not recommended by the BOO for compassionate ground. **In view of this the competent authority is of the view does not deserve employment assistance on compassionate grounds.** (*More or immediate assistance by way of compassionate employment to tide over the emergency lacking in your case as the Death/MBO/Missing of the government was on _____ years ago only) * or (____years _____months before his normal retirement)

Central Administrative Tribunal
22 APR 2009
Guwahati Bench

P/3

A. TESTED

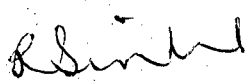
ADVOCATE

- 37 -

22 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

7. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgements of the Hon'ble Supreme Court and that the appointment on compassionate grounds is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of the Board of officers at Army Headquarters, the competent authority has rejected the employment assistance to **Smt Kiran Kumari D/O Late Ram Prit Singh** on compassionate grounds, (*due to non-availability of sufficient vacancy within 5% quota).


(Ravi Sinha)
SE
Dir (Pers & Legal)
For Chief Engineer

Encls : (As above)

Copy to :-

Eng;inseer-in-Chief's Branch
Army Headquarters
New Delhi
Pin- 110011

- For information please.

HQ Eastern Command
Engineers Branch
Fort William
Kolkata

-do-

CWE Shillong

-do-

GE Narangi

-do-

* Include/delete as per the circumstances of the individual cases/

A. TESTED

ADVOCATE

File in Court on... 15/6/09
Court Officer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
1.6 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. No. 75 OF 2009

Smt Kiran Kumari Singh..Applicant.

-Versus-

Union of India & Ors..Respondents

XINDEX

| <u>SL.NO.</u> | <u>PARTICULARS</u> | <u>PAGE NOS.</u> |
|---------------|--|------------------|
| 1. | Written Statement | |
| 2. | Verification | |
| 3. | Annexure-I (Copy of Chief Engineer, Shillong, Zone letter No.70222/01-25/2006/36/ E1(legal) dtd. 10.6.2008 | |
| 4. | Annexure-II An extract copy of scheme of compassionate appointment. | |

Received by
N. Ahn
Advocate
15/6/09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

Filed by

(P K Goel)
EE (SG)

Garrison Engineer

52
Through Garrison Engineer
14.06.09

O.A. NO. 75 OF 2009

Smt Kiran Kumari Singh

... Applicant

-Versus-

Union of India & Ors.

.... Respondents

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
16 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Written statement on behalf of the
Respondents above named -

MOST RESPECTFULLY SHEWETH:

1. That a copy of the above noted original application has been served upon the respondents and the respondents after going through the same has understood the content thereof.
2. That the respondents beg to state that the statements which are not specifically admitted by the respondents are deemed to be denied by them.
3. That with regard to the statements made in paragraph 1 of the original application are matter of records and the answering respondents do not admit anything which are not borne out of anything hence the respondents beg to offer no comment.

Contd...P/-

(P K Goel)
EE (SG)
Garrison Engineer

16 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[2]

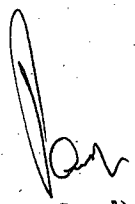
4. That with regard to the statements made in paragraphs 2, 3 and 4.1 of the original application the respondents beg to state that these are within the specific knowledge of the applicant and the respondent has no comment to offer.

5. That with regard to the statements made in paragraphs 4.2 and 4.3 of the original application the respondents beg to offer no comment as those are matters of record.

6. That with regard to the statements made in paragraph 4.4 of the original application the answering respondents submit that there is a scheme for compassionate appointment of next of kin of Central Government Employees. The limit is only 5% of direct recruitment vacancies which should be made on means-cum-merit basis. The case of the applicant was considered ten times by appointing authority, i.e. Chief Engineer, Shillong Zone, but rejected due to lack of merit.

Copy of Chief Engineer, Shillong Zone letter No. 70222/01-25/2006/36/E1 (Legal) dated 10 June 2008 and an extract copy of scheme of compassionate appointment are annexed herewith as Annexure - I and II respectively.

Contd...P/-


(P K Goel)
EE (SG)
Garrison Engineer

6 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[3]

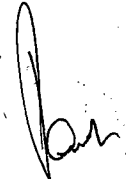
7. That with regard to the statements made in paragraph 4.5 of the original application the answering respondents beg to state that the letter No. 80522/2/6134/E1C dated 07 Nov 2005 as mentioned in the OA does not pertain to Respondent No.3 and thus answering respondents has no comment to offer.

8. That with regard to the statements made in paragraphs 4.6 to 4.10 of the original application the respondents beg to state that these are matter of records and the Respondent has no comments to offer.

9. That with regard to the statements made in paragraph 4.11 of the original application the respondents beg to state that the above case of the applicant was considered several times as stated above but each time it was rejected due to lack of merit. The details of the comparative merit list will be produced before this Hon'ble Tribunal at the time of hearing the instant case

10. That with regard to the statements made in paras 4.12 to 4.21 of the original application the respondents beg to state that the scheme of compassionate appointment has been envisaged with the whole object of offering compassionate appointment only when the family is in actually put under very extreme indigent circumstances after the death of government servant to be examined by the competent authority in detail. In the case of Umesh Kumar Nagpal-Vs-State of Haryana and others(JT 1994(3)SC

Contd...P/-


(P K Goel)
EE (SG)
Garrison Engineer

16 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[4]

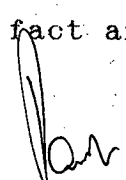
525), Hon'ble Supreme Court of India observed that "offering appointment on compassionate ground as a matter of course irrespective of financial condition of the family of the deceased or medically retired government servant is legally impermissible and compassionate appointment can not be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future."

In the instant case a board of accredited government officer constituted at the highest level of Army Headquarters after taking into account each and every aspect of sustenance of the family and also with reference to the regular financial support available with the family by means of monthly family pension and other terminal benefits as well as immoveable assets inherited by the applicant etc. has come to the conclusion that the applicant's case is not a fit case for appointment on compassionate grounds.

Accordingly, the decision of the board of officers was communicated to the applicant by a speaking order bearing No. 70201/9B/SO/14/E1C(2) dated 01 Oct, 2008.

12. That with regard to the statements made in paragraphs 5.1 to 5.15 of the original application the respondents beg to state that in view of the submission made above the answering respondent pray your Lordships may not be admit the application as these are not good grounds which are neither tenable in law nor in fact and

Contd...P/-


(P K Goel)
EE (SG)
Garrison Engineer

16 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

[5]

may dismiss the application on the following grounds:


- a) Compassionate appointment is not a matter of right and Respondents have not violated any provisions of Constitution by rejecting the claim.
- b) The case of the applicant was carefully considered at the highest level taking into account all aspects of the sustenance of the family before rejecting the claim.
- c) The Respondents have followed all the directions, orders of Hon'ble Supreme Court of India at the time of reconsidering the case of the applicant.

13. That with regard to the statements made in paragraphs 6 and 7 of the original application the respondents beg to offer no comment as those are within the specific knowledge of the applicant and the respondents neither admit or denies the same.

14. That with regard to the statements made in paragraphs 8 (8.1., 8.2., 8.3 and 8.4) and 9 of the original application the respondents beg to submit that relief sought for by the applicant is based on imagination and not based on facts of the case and therefore, the case is liable to be rejected on facts laid down by respondent in the forgoing paragraphs.

15. That with regard to the statements made in paragraphs 10 to 12 of the original application the respondents beg to offer no comments being matter of records.

Contd...P/-


(P K Goel)
EE (SG)
Garrison Engineer

16 JUN 2009

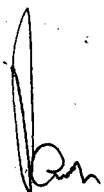
गुवाहाटी न्यायपीठ
Guwahati Bench

[6]
VERIFICATION

I, P. KESHU KUMAR GOEL.....S/o... Shri. Ram Kumar Goel
aged about years, R/o ... Narangi.....
District Ramrup...and working as Garrison Engineer and
has been authorised by the Respondent to verify the
statement on their behalf. I, do hereby verify that the
statement made in paras 1 to 5 and 7 to 14
are true to my knowledge and
those made in paras 6
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal and I have not suppressed any material facts.

And I sign this verification on this 7th day
of May 2009 at Guwahati.

Signature


(P K Goel)
EE (SG)
Garrison Engineer

FAX ✓

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-11

Tele : 6706 (Mil)
FAX : 0364-2536282
G-mail : Shillongengrs @ gmail.com.

70222/OA-25/2006/ 33 /E1 (Legal)

10 Jun 2008

Chief Engineer
Kolkata Zone
Ballygunge Maidan Camp
Gurusaday Road
Kalakata- 70019

OA NO 282/2007 FILED BY SMT KIRAN KUMARI SINGH D/O LATE RAM PRIT SINGH, EX PUMP HOUSE OPERATOR VS UOI AT CAT GUWAHATI

1. Ref your letter No 80307/Court Misc/1093/E1(Legal) dated 29 May 2008.
2. It is intimated that the case in respect of Smt Kiran Kumari Singh has been examined in detail in ten occasions from the Bd of offrs held during QEs as follows :-

- (a) Sep 2001
- (b) Mar 2004
- (c) Jun 2004
- (d) Dec 2005
- (e) Mar 2006
- (f) Jun 2006
- (g) Sep 2006
- (h) Dec 2006
- (i) Mar 2007
- (k) Jun 2007

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
16 JUN 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

3. In all the occasions, her name could not come in the merit. Accordingly Speaking order was issued to her vide this HQ letter No 70201/9/SO/311/E1C(2) dated 07 Aug 2007. Hon'able Court authorities may kindly be informed accordingly at your end please.

Ravi Sinha

(Ravi Sinha)
SE
Dir (Pers & Legal)
For Chief Engineer

Encls: (As above)

Copy to :-

CE HQ Eastern Command
CWE Shillong
GE Narangi

- for info along with a copy of order dated 02 May 2008.

certified to be true copy

*D. Kour
Advocate
18.6.09*

Handwritten signature

the Ex-Servicemen has put in at least three years' service in the Army and is otherwise found suitable. A matriculate Ex-Serviceman with 15 years' service in the Armed Forces will be considered eligible for posts for which graduation is prescribed, if work experience of technical or professional nature is not essential or if the appointing authority is satisfied that the Ex-Servicemen will perform the duties by undergoing on-the-job training for a short duration.

Relaxation of educational qualification as above applies for promotion also.

(iii) *General standard for selection.*— Required standard may be relaxed, if persons for all the vacancies are not available and if such relaxation will not affect the performance by such candidate.

(iv) *Application / examination fee.*— Exempted for examinations conducted by UPSC/SSC and the Institute of Secretariat Training and Management for filling the vacancies reserved for them in various Group 'C' posts.

(v) *Special Concessions for Disabled Ex-Servicemen.*— If the disability attributed to military service, he will be accorded Priority-I along with a retrenched employee for appointment to Groups 'C' and 'D' posts filled by direct recruitment. Up to two members, each of the families of defence service personnel (widow, son / daughter / near relative who agree to support the family) will be granted priority immediately after the disabled Ex-Servicemen, i.e., Priority II-A. Medical Certificate of Fitness granted by a Demobilization Medical Board of the Defence Services would be considered adequate for appointment to all posts.

(vi) *T.A. to handicapped Ex-military personnel called for interview.*— The concessions regarding grant of T.A. to SC/ST called for interview are also extended on the same scale. Procedure for drawal and payment will also be the same — [GIOs below SR 132]

7. *Liaison Officers.*— Officer appointed to look after the reservation matters of SC/ST would also be the L.O. for reservation matters relating to Ex-Servicemen and physically handicapped.— OM, dated 10-11-1994.— Section 4.

7. Compassionate Appointments of Dependants

[Swamy's — Complete Manual on Establishment and Administration]

1. *Applicable to a dependent family member of.*—

- (a) a Government servant who dies in service (including death by suicide);
- (b) is retired on medical grounds before attaining the age of 55 years (57 years in the case of Group 'D' officials);
- (c) a member of the Armed Forces who—
 - (i) dies in service; or (ii) killed in action; or (iii) is medically boarded out and unfit for civil employment.

certified to be true copy

*A. Kour
Advocate
14.6.09*

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

1 6 JUN 2009

गुवाहाटी न्यायबेंच
Guwahati Bench

Service includes extension in service (but not re-employment). Service includes re-employment of Ex-Servicemen in civil post before the normal age of retirement.

Dependent family member means (a) spouse; (b) son / daughter (including adopted son / adopted daughter) and (c) brother or sister in the case of unmarried Government servant / member of the Armed Forces at the time of his death in harness / retirement on medical grounds, as the case may be.

In the case of a missing employee.— Compassionate appointment can be considered after two years from the date of missing—

- (a) if FIR has been filed and the missing official is not traceable;
- (b) if he had at least two years to retire;
- (c) if he is not suspected to have committed fraud / joined terrorist organization / gone abroad;
- (d) if the Competent Authority feels that the case is genuine; and
- (e) decision is to be taken at the level of Secretary.

Concession of compassionate appointment is admissible to one dependant only.

EXCEPTIONS.— (1) In exceptional circumstances, with the prior approval of the Secretary of the Ministry / Department concerned, the appointment on compassionate grounds may be considered even when there is an earning member in the family of the deceased.

(2) If the deceased was unmarried, one of the dependent brothers / sisters will be eligible for consideration, on giving an undertaking that he/she will look after the other family members who were dependent on the deceased Government servant.

2. Posts to which appointment made.— Only in Group 'D' and Group 'C' posts.

3. Appointing Authority.—

| | | |
|----------------------------------|-----|--|
| Ministry / Department | ... | Joint Secretary in-charge of the Administration or Secretary |
| Attached and Subordinate Offices | ... | Heads of the Departments under SR 2 (10). |
| Department of Telecommunications | } | Respective Circle Selection Committee. |
| Department of Posts | | |

4. Conditions.—

- (i) Compassionate appointment can be made only against the direct recruitment quota and

केन्द्रीय प्रशासनिक आयोग
 Central Administrative Tribunal

 1 6 JUN 2009
 गुवाहाटी न्यायपीठ
 Guwahati Bench

16 JUN 2009

गुजराती न्यायपीठ
Gujarati Bench

RESERVATIONS AND CONCESSIONS IN APPOINTMENTS

71

(ii) Applicants should fulfil all eligibility conditions in Recruitment Rules.

5. Relaxations.—

(i) *Age.*— Maximum age-limit may be relaxed wherever necessary, but no relaxation is permissible in the minimum limit of 18 years. If the ward is below 18 years of age at the time of death of the Government servant and if he alone is available for employment, he should apply as soon as he attains 18 years.

(ii) *Qualifications.*— For Group 'D' post and LDC, qualifications may be temporarily relaxed by the Departments, subject to the condition that such relaxation will be permitted up to two years only. The appointee should get qualified within this period as otherwise his services are liable to be terminated.

Widow appointed to a Group 'D' post will be exempted from the prescribed educational qualifications, if the duties can be performed satisfactorily.

(iii) *Procedure.*— Conditions in the recruitment procedure, viz., clearance from Surplus Cell, recruitment through SSC, Employment Exchange, etc., will be relaxed. Compassionate appointments are exempted from ban orders on filling up of vacant posts.

6. *Limitations.*— Compassionate appointments can be made only up to 5% of direct recruitment vacancies which may be calculated on the basis of total direct recruitment vacancies for Groups 'C' and 'D' posts (including technical posts) that have arisen in the year. No compassionate appointment can be made if there is no vacancy.

7. *Reservations.*— Person selected for compassionate appointment to be adjusted in the recruitment roster against the appropriate category, i.e., SC/ST/OBC/General category, depending upon the category to which he belongs.

8. *Procedure for appointment.*— Heads of Offices will make the proposal and the Head of Department / Ministry will decide the appointment. Proposal will be made in the prescribed form containing all particulars of the candidate and the specific relaxation required in age, qualifications, etc. The Head of Department / Ministry will take into account all the circumstances of the family, the benefits such as CGEIS payments, GPF / CPF, gratuity, etc., received, the existence of any earning member in the family on the one hand and on the other, size of the family, ages of children, essential needs, liabilities and the financial condition of the family. Financial benefits received need not necessarily be a ground for rejecting the proposal *vis-a-vis* other adverse factors urging acceptance.

9. Other Provisions.—

(i) *Widow in appointment after re-marriage.*— There is no bar against a widow appointed on compassionate grounds continuing in the appointment after re-marriage.

(ii) *Dependant of Group 'D' deceased considered for Group 'C' also.*— The appointment of the family member of a deceased Group 'D' employee need not be restricted to a Group 'D' post. Such a member, if qualified can be appointed to a Group 'C' post also.

(iii) *No consideration for change in post.*— Once the compassionate appointment is made, request for a change in the post, on compassionate grounds will not be entertained. The appointee will be treated like his colleagues for career advancement in the normal course.— *Chapter 32.*

(iv) *No consideration if compassionate appointment not provided within three years.*— If compassionate appointment to genuine and deserving cases is not possible in the first year due to non-availability of regular vacancy, the prescribed committee may review such cases to evaluate the financial conditions of the family to ensure that the family still requires a compassionate appointment, subject to availability of a clear vacancy within the prescribed 5% quota. A candidate's name can be kept under consideration for compassionate appointment for three years and the committee will review the penurious conditions of the applicant at the end of the first and the second year. After three years, if compassionate appointment is not possible, his case will be finally closed and will not be considered again.— *OM, dated 5-5-2003.*

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

16 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

File in Court on... 21/7/09
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

FILED BY

Smt. Kiran Kumari Singh
Applicant
Through Nuruddin Ahmad
Advocate

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
360
21 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE MATTER OF:

O.A.No. 75 of 2009

Smti Kiran Kumari Singh

-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:

1. That with regard to the statement made in paragraphs 1 to 5 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 statement made in paragraph 6 of the written statement the Applicant begs to state that though the Respondents examined the case of the Applicant ten times as stated in Annexure I of the written statement but they have not considered the case of the Applicant inspite of her case is genuine. The Applicant's father died on 28.01.1993 due to accidental Electric shock alongwith her mother on the same day leaving behind her and her younger sister while they were aged about 11 years and 9 years respectively and since then they are living at the mercy of their

किरण कुमारी सिंह

relatives. Now the relatives are not inclined to help them as they are in a marriageable condition. It is to be stated that the Respondents while rejecting the case of the Applicant vide Final Speaking order dated 01.10.2008 deliberately and intentionally have not mentioned about the number of vacancies on Compassionate grounds quota under them since the year 1995 to till date. The Respondents have not given the name of the persons who were appointed on compassionate ground and also have not given comparative merit chart with marks of the other candidates who have appointed by superseding the Applicant.

3. That with regard to the statement made in paragraphs 7 & 8 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the applicant.

4. That with regard to the statement made in paragraph 9 & 10 of the written statement the Applicant reiterates and reaffirms the statement made in paragraph 2 of this rejoinder.

5. That with regard to the statement made in paragraph 12 of the written statement the Applicant begs to state that her father had served under the Respondents with sincerity and without any blemish in service career till he expired in accident alongwith his wife. The deceased left behind his two minor daughters who were aged about 11 years and 9 years respectively at that time. Since then they are living at the mercy of the relatives and now the relatives of the Applicant refused to give further assistance to them. The Applicant case is very pathetic and need to be considered by the Respondents.

विश्वरूप कुमार सिंघ

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
21 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

6. That with regard to the statement made in paragraph 13 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by her.

7. That with regard to the statement made in paragraph 14 of the written statement the Applicant begs to state that relief sought by the Applicant is bonafide, justifiable and deserved to be allowed by the Hon'ble Tribunal.

8. That with regard to the statement made in paragraph 15 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.

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.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

21 JUL 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

वि.र.न. कुमार सिंह

- 4 -

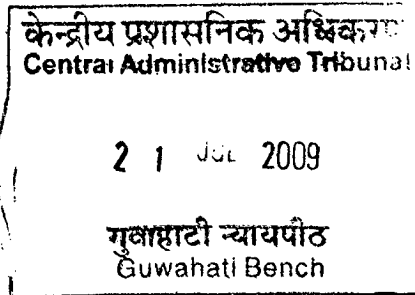
V E R I F I C A T I O N

I, Smti Kiran Kumari Singh aged about 26 years, Daughter of Late Ram Prit Singh, Ex-Pump House Operator, MES No. 224892, Resident of Quarter No 219 Army Cantt. Post Office-Satgaon, Narengi, Guwahati - 27 do hereby solemnly verify that the statements made in paragraph nos. 1 to 8 are true to my knowledge and belief and rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 20th day of July 2009.

किरण कुमारी सिंह

DECLARANT

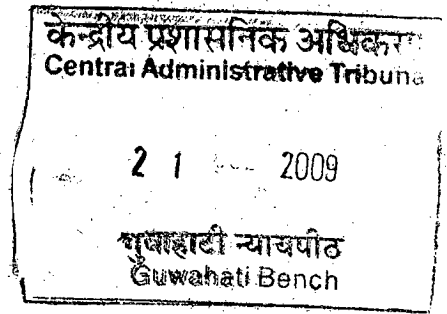


NOTICE

Date - 21-07-09 XV

From,

N. Ahmad
Advocate



To,

Shri G. Baisya
Sr. C-G-S.C.
C.A.T. Guwahati Bench
Guwahati

Sub - Supply of copy of rejoinder in
O.A. No. 75 of 2009.

Sr., Please find herewith a copy of
rejoinder filed by Smt. Kiran Kumari
Singh through me before this Honble
Tribunal and kindly acknowledge
the receipt of the same.

Thanking You

Yours faithfully
N. Ahmad
Advocate

Received by
Utpalparna Choudhary
on behalf of
G. Baisya
Sr C G S C
21/7/09