

*Voluntary delivery (18)*

(14)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

O.A. No. 379 OF 1987  
~~T.A. No.~~

DATE OF DECISION 9-7-1991.

Hahibabbisha Hussainmiya Kazi. Petitioner

Mr. K.K. Shah, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. N.S. Shevde, Advocate for the Respondent(s)

**CORAM :**

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

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Habibabbisha Hussainmiya Kazi,  
widow of late Shri Hussainmiya A.Kazi,  
residing at Jetalpur  
Behind Aggarwal Guest House,  
Adjumiya's Building  
Baroda - 390 005. .... Applicant.

(Advocate: Mr. K.K. Shah)

Versus.

1. Union of India, notice to be served through the General Manager, Western Railway, Churchgate, Bombay - 400 020.
2. Divisional Railway Manager, Western Railway, Pratapnagar, Baroda. .... Respondents.

(Advocate: Mr. N.S. Shevde)

J U D G M E N T

O.A.No. 379 OF 1987

Date: 9-7-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The short but important question for our decision in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, is whether Shri Hussainmiya Kazi who died on 22-11-1984 was in service upto the date of his death or he had voluntarily retired on 20.11.1984 two days before his death. Our decision on this question will also decide the admissibility of reliefs of retiral benefits on the basis of death while in service and compassionate basis job to the son of the deceased on the same basis. The applicant in this case is the widow of the above railway employee.

2. It is not in dispute that the deceased had applied on 20.8.1984 for voluntary retirement by giving the prescribed three months notice. It is being canvassed for the applicant that in this

M M J

application the deceased had sought sanction of his voluntary retirement from 30.11.1984 A.N. A zerox copy of the application is produced at Annexure-A. We notice that the date of intended retirement figures in this application at two places. At both these places, the first figure of the date contains overwriting which even naked eye cannot fail to notice. In fact it is very clear that figure 2/<sup>in</sup> the date 20.11.1984 has been overwritten to show that it is 3. The application is typed. But the figure 2 has been converted to figure 3 by overwriting by handwriting. This circumstance yields the inference that the overwriting came to be made after the application had been typed. We should also observe here that the words "Treat this as three month's notice" in the application are also added by handwriting. However, there is no dispute about these words which are consistent with the three months notice provision in the service rules on the subject.

3. The respondents' stand is that after issuance of order dated 28.9.1984 of voluntary retirement of the applicant with effect from 20.11.1984, the applicant had ~~filled~~ up various forms on 8.11.84 for post retirement benefits ~~showing~~ 20.11.84 as the date of retirement and claiming settlement upto 20.11.1984. The respondents have paid all the post retirement dues to the applicant accordingly.

4. Thus the only material in support of the applicant's contentions is the xerox copy of the voluntary retirement application which, as seen above, contains overwriting of figure 2 of date 20.11.1984 which is an obvious effort to change the date 20.11.84 to 30.11.84 in order to show that the deceased

H. H. J.

was in service on 22.11.84, the date of his death. On the other side the respondents have produced certified copy of order dated 28.9.1984 to the effect that Shri Hussainmiya's request for voluntary retirement is accepted with effect from 20.11.1984. Respondents have also produced attested copy of Form No. 30 B-RII being formal application for pensionary benefits on account of voluntary retirement from service with effect from 20.11.1984 filled up on 8.11.84, before the death of the deceased, and signed by the deceased. These documents suffice for us to reject the applicant's contention taken in the application that till the deceased died no order of acceptance of his voluntary retirement application had been passed. The further contention of the applicant that voluntary retirement normally becomes effective on the last date of the month is untenable. That is the case with normal retirements and not voluntary retirements under three month's notice provision when the retirement becomes effective from the date the period of notice ends. The notice as stated above is clear on the point. The material produced by the respondents in support of their stand is both credible and conclusive.

5. However, much one may sympathise with the applicant, in the light of our above discussion, on merits the application cannot be allowed. The application is therefore dismissed. However, in view of the circumstances of the applicant we do not order costs against the applicant.

*R.C. Bhatt*  
(R.C. Bhatt)  
Judicial Member.

*M. M. Singh*  
(M.M. Singh) 9/7/91  
Admn. Member

## CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

18

Original Petition No. 379 of 87.Miscellaneous Petition No. — of —.Shri H. H. Kazi Petitioner

Versus

Union of India & oos.

This application has been submitted to the Tribunal by Shri K. K. Shah. Under section 19 of the scrutinised with reference to the points mentioned in check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunal (Procedure) Rules, 1985.

The application has been found in order and may be listed on — for admission/order.

OR

The application is not been found in order for the reasons indicated in the check list. The applicant <sup>Adv. Mr. K. K. Shah</sup> may be advised to comply to rectify the same within 10 days. Draft letter is placed below for signature. RM

31/7/87

The applicant has since removed the defects and the application may now be listed for admission.

The applicant's adv. Mr. K. K. Shah removed the defects. we may now listed for admission.

AM 31/7/87 11-8-87 of Voluntary  
D.Y.R(T) PL. put up on 11-8-87 as it is easier to be  
disposed placed before one member (Pintion).  
copy served to learned Counsel for  
Respect  
31/7/87

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. No. 379 of 1987

8  
19

Habibannisha Hussainmiya Kazi ... Applicant

V/s.

Union of India and Others ... Respondents.

OA Registration  
No. 379/89  
Stamp No. 379/89  
Date of filing  
31/1/87  
For registration.

I N D E X

Sr. No.	Annexure	Particulars	Page No.
1.		Memo of application	1 to 10
2.	'A'	Appln. for voluntary retirement dtd. 20.8.84	11
3.	'B'	Death Certificate dtd. 23.11.84	12
4.	'C'	Application for settlement of dues dtd. 3.12.84.	13
5.	'D'	Extract of the item placed in the informal meeting by Divisional Secretary of the Union.	14
6.	'E'	Application dtd. 28.10.85.	15 - 16
7.	'F'	Copy of the order from the respondents.	17
8.	'G'	Application to DRM, Baroda dtd. 12.1.87	18
9.	'H'	Letter dtd. 8.7.87 from DRM rejecting employment.	19

Advocate for the applicant.

*Shah*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. No. 379 of 1987

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Habibannisha Hussainmiya Kazi

... Applicant.

V/s.

Union of India and Others

... Respondents.

DETAILS OF APPLICATION:

1. Particulars of the Applicant:

Habibannisha Hussainmiya Kazi,  
widow of late Shri Hussainmiya A.Kazi,  
residing at Jetalpur  
Behind Aggarwal Guest House,  
Adjumiya's Building  
Baroda 390 005.

Address for service of notice:

C/o. K.K. Shah, Advocate  
3 Achalayatan Society, Div.II,  
Navrangpura,  
Ahmedabad 380 009.

2. Particulars of the Respondents:

A. Union of India, notice to be  
served through the General Manager,  
Western Railway, Churchgate,  
Bombay 400 020.

B. Divisional Railway Manager,  
Western Railway,  
Pratapnagar,  
Baroda.

3. Particulars of the order against which application  
is made:

The application is preferred by the widow of late  
Shri Hussainmiya A. Kazi by retiring her husband from  
20.11.84 without assigning the reasons and arbitrary

and discriminatory action of the Respondents.

Also not absorbing his son or legal heir eligible for employment on compassionate ground.

Not paying the pension as per the rules.

#### 4. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which she wants redressal is within the jurisdiction of the Tribunal.

#### 5. Limitation:

The application further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

#### 6. Facts of the case:

The facts of the case are given below:

A. The applicant is the widow of late Shri Hussain-miya A. Kazi, who was working as Driver Grade 'A'. The deceased applied for voluntary retirement due to keeping his ill-health, on 20.8.84, by application to the Senior DAV (E) BRC. The said application is marked and annexed herewith Annexure 'A'. The deceased was working as Driver Grade 'A' and died on 22.11.84. A copy of the Death Certificate is annexed herewith Annexure 'B'.

Ann. 'A'

Ann. 'B'

B. The applicant submits that on her husband's death, on 22.11.84, she preferred an application

to the Divisional Railway Manager for settlement of her husband's dues on 3.12.84. A copy of the same is annexed herewith Annexure G.

Ann. 'G'

C. The applicant again submitted the application to DRM through Divisional Secretary of the Union stating that the deceased was voluntarily retired by the respondents on 20.11.84 instead of 30.11.84 though he had shown his willingness to retire voluntarily from 30.11.84. At this juncture, the applicant wants to bring to the notice of this Hon'ble Tribunal that till the deceased died, no such order of accepting his voluntary retirement application is passed or acknowledged by the deceased nor is served to the widow of the deceased. Normally when an employee apply for voluntary retirement, he should always be retired at the end of the month on the last working day from afternoon and the application is to be accepted by the respondent and order is required to be passed on the same and to be served on the employee who has applied for such voluntary retirement. In the present case, no such order is served to the deceased and no acknowledgement is made. The respondents have arbitrarily retired the deceased from 20.11.84 instead of his desire and willingness was from 30.11.84.

D. The Divisional Secretary of the Union had taken up this issue before the informal meeting with the

Administration and placed the item on the Agenda and the extract of it is annexed and marked herewith Annexure 'D', But the settlement of the deceased dues was not done and another application was preferred on 28.10.85.

A copy of the same is annexed and marked herewith Annexure 'E'

Ann. 'D'

Ann. 'E'

E. On all these representations and after consultation with the Union, the respondents just to victimise the deceased and the applicant and arbitrarily rejected the representations and appeals preferred by the Union by letter dated 23.7.86, stating that the deceased was resumed duty on 2.10.84 after his sickness and that time he was informed to spare or surrender his tools and also he was informed about his retirement from 20.12.84 and has not raised any objections for the same.

The above stated facts appear to be a made-out-story by the respondents which is without any evidence and without any application of mind.

Not only that the respondents are trying to escape from their illegal action. A copy of the said order is marked herewith Annexure 'F'.

Ann. 'F'

F. The applicant submits that on receipt of the order Annexure 'F', the Union preferred another application to the Divisional Railway Manager, Baroda on 12.1.87, a copy of the same is marked herewith Annexure 'G'. The applicant

Ann. 'G'

(22)  
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submits that a request was made by the Respondents to give employment to his son Shri Mohammad Yunus Hussainmiya Kazi on a compassionate ground was also rejected by DRM by his letter dated 8.7.87. A copy of the same is marked and annexed herewith Annexure H.

Ann. H

G. The present application is preferred by the widow of the deceased for the benefit which is not given to the applicant or her family members by treating the deceased as on duty and also by not paying the compensation as per the rules as well as not giving employment to the son of deceased on compassionate ground. On succeeding by this application, the widow is likely to be monetarily benefitted and her son can get employment who can save the family from starving in these harsh days and this Hon'ble Tribunal may be kind enough to treat this application sympathetically.

On the above facts and circumstances of the case, the applicant wants to challenge the action of the respondents in the present application on the following grounds:

#### GROUND:

A. The respondents utterly failed to comply their own rules, particularly Rule 2046 para materia ~~way~~, Fundamental Rule 56 and also failed to consider the case of the deceased that by his application

Annexure 'A', he applied for voluntary retirement from 30.11.84 and not from 20.11.84.

Normally, 3 months advance notice is required to be given which the applicant has given as per the application. If the respondents want to retire the deceased from 20.11.84, the reasons for his retirement 10 days before of his willingness should be communicated to him in writing before passing an order like that. Since no such reasons has been found from the record of the deceased, it is unpracticable that the deceased has not raised any objection to retire him from 20.11.84. The action of the respondents is arbitrary, discriminatory and violative of principles of natural justice and requires to be quashed and set aside.

B. This Hon'ble Tribunal may be pleased to note that the actual date of the superrannuation of the deceased was 30.8.89 and the deceased has actually applied for voluntary retirement and the respondents cannot retire him before the date of the willingness and desire of the deceased. And in the present case, no order of accepting his voluntary retirement from 20.11.84 is there, and also no order has been acknowledged by the deceased retiring him from 20.11.84.

C. The respondents have failed to treat the deceased on duty since he died on 22.11.84 due to that the widow of the deceased and the family members are being deprived of the benefits as per the Pension

Rules and the employment of the son of the deceased on compassionate grounds as per the Railway Rules.

D. The respondents failed to pay the pension 50% as per the Pension Rules. In the case where the employee ~~dies~~ during his service period, he should be given full pension as per the Pension Rules for the period of 7 years. But in the present case, the family of the deceased is not being paid as per the Rules.

E. The deceased was working as the Driver Grade ~~xxx~~ 'A' under L.F.Dabhoi and his ticket No. was 6661 though the respondents treated him as Driver Grade 'B' and ~~paying~~ him the pension as per Driver Grade 'B' scale of Rs.425-640 (R at the rate of Rs.550) which is totally illegal, unjust, discriminatory and violative of article 14 and 16 of the Constitution of India and against principles of natural justice.

F. The respondents failed to treat the deceased on duty since he was under the treatment at Muljibhai Patel ~~xxx~~ Urological Hospital, Nadiad from 16.11.84 to 22.11.84 and failed to pay the benefits by treating him on duty.

7. Reliefs sought:

~~On~~ On the above facts and circumstances of the case and on the grounds herewith mentioned, the applicant pray as under:

A. This Hon'ble Tribunal may be kind enough to hold that since the order of voluntary retirement is not acknowledged and served to the deceased is to be treated ~~as~~ not order in the eyes of law and to treat the deceased on duty and direct the respondents to pay the benefits to the applicant as per rules and also consequently effect to the pension paid to them and also direct the respondents to review their reply of the respondents dated 8.7.87 of rejecting the application of her son for employment on compassionate grounds.

B. This Hon'ble Tribunal may be kind enough to direct the respondents to pay the benefits accrued as per the rules by treating the deceased on duty and not retired from 20.11.84 and consider that actually he was retiring from 30.8.89.

C. This application may be allowed by this Hon'ble Tribunal with costs, since the applicant has approached some private legal agency for preferring this application.

8. Interim order, if prayed for:

A. Pending hearing and final disposal of this application, this Hon'ble Tribunal may direct the respondents to reconsider the case of the deceased and direct the respondents to pay full pension to the family members of the deceased and also direct

the respondents to give a suitable employment to the son of the deceased, Shri Mohmad Yunus Hussainmiya Kazi.

B. Any other order or directions may be deemed fit by this Hon'ble Tribunal in the interest of justice.

9. Details of the remedies exhausted:

The applicant declares that she has availed of all the remedies available to her under the relevant service rules, etc.

10. Matter not pending with any other court, etc.:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Postal Order in respect of the application fee:

Number of Indian Postal Order: OD - 749132

Name of the issuing Post Office: Gaz - High Coast P. O.

Date of Issue of Postal Order: 24 - 7 - 87.

Post Office at which Payable.

Albod.

12. Details of Index: As annexed.

13. List of enclosures: As enclosed.

Shahidul  
Cecilman

VERIFICATION

I, Habibannisha Hussainmiya Kazi, wife of late Shri Hussainmiya A. Kazi do hereby verify that the contents from 1 to 13 of this application are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place:

ગુજરાત સરકારી સ્ટાન્ડર્ડ

Date:

Signature of the applicant

Identified and verified by me:

K.K. Shah, Advocate,  
3 Achalayatan Society, Div.II,  
Navrangpura,  
Ahmedabad 380 009.

*Shah K. K.  
Advocate*

All the annexures ~~are~~ annexed herewith this application are true copies of the originals.

*Shah K. K.*

From: Hussainmiya A.  
Driver 'A'  
T.No.6661.

Date 16/8/84

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To  
The Sr.D.M.E.(E) DDC.  
C/o.LF.DB.

Through: LF.DB.

Sub: Voluntary retirement.

Shri Hussainmiya A.Kazi Dr.'A'DB.

Sir,

I, the undersigned Driver 'A' Hussainmiya A. of  
D.B. DDC. beg to lay the following few lines for your  
kind consideration.

I have served for 33 years services in this Rly.  
My domestic circumstances do not permit me to serve  
long. Therefore I have decided to look after my father  
in laws property and as such I am putting my voluntary  
retirement which may please be sanctioned from 30-11-84  
AN.

Therefore I beg to request and may please be granted  
my all kinds of leave due before my retirement and I  
may be granted all my dues on an early date.

I hope & pray that your honour will surely  
accept my voluntary retirement on my due date i.e.  
30.11.84 AN and oblige. Thank you.

Awaiting for the favour of an early reply.

Yours faithfully,

Hussainmiya A  
(Driver 'A')

LF.DB.

T.No.6661.

for forwarded  
J.M.  
LF.DB.

GRW/H

TRU  
RM

Afshan

A B II  
A 1  
B 26

મરણું પ્રમાણપત્ર  
(જન્મ અને મરણ નોંધણી અધિનિયમ ૧૯૬૮ની તરફ ૧૨/૧૭ મુજાહ)

ગુજરાત સરકાર

નંબરો ફોર્માન : ૧૦

લાદેર આરોગ્ય ખાતું

આંદ્રી પ્રમાણપત્ર આપવામાં આવે છે કે નીચેની માહિતી મરણના ગુજરાત રેકૉર્ડમાંથી લેવામાં આવી છે. કે ગુજરાત રાજ્યના એકા લાદેર નાડીયાદ તાવુણા નાડીયાદ નગરપાલિકાના રજીસ્ટરમાં છે.

૧. નામ : કુલોળામિયા	૨. આગ્રહી : (y./ની.) ૫.
૩. મરણની તારીખ : ૨૨-૧૧-૮૪	૪. નોંધણી ફોર્માન : ૧૧૮-૫
૫. મરણનું સ્થળ : નાડીયાદ.	૬. નોંધણીની તારીખ : ૨૩-૧૧-૮૪
૭. પાતા/સાતા/પતિનું નામ : કુલોળામિયા ફોર્મ	

નોંધણી મરણના પ્રાણીના મરણ જાંખ્યો રજીસ્ટરમાં દાખલ  
કરી ગ્રાન્ડ કિન્ડ લાદેરમાં કી શકે નથી.

(ફોર્મ-૧૮ (૧) બ)

TD Bokchek  
નોંધણી આપનાર  
અધિકારીની રજી

રજીસ્ટર  
(જન્મ મરણ)  
નાડીયાદ નગરપાલિકા

તારીખ : ૨૩-૧૧-૮૪

Tak Com.

J/M

A/M

For P.G.D. A2  
27  
From: Habibannisha  
w/o. late Shri  
Hussainmiya.A.Kazi,  
Getalpur, behind  
Agarwal Guest House,  
Abjumiya Building,  
Baroda.

Date: 3-12-84

To,  
The D.M.-B.I.C.

Respected Sir,

I, the undersigned beg to inform you that my husband  
Shri Hussainmiya.A.Kazi working who was working as a Driver  
under I.F.-DB has unfortunately died on 22-11-84. He was  
on duty upto 14-11-84 and then due to infective hepatitis  
was under the treatment of Narhari Hospital, Baroda from there  
he was shifted to Kidney hospital-Nadiad where he died on  
the same day. The period from 16-11-84 to 22-11-84 may  
please be treated as leave due and final settlement done  
quickly.

Thanking you,

Encl: Three.

Yours faithfully,

હસ્સિન્મિયા અન્ના કાર્તી

(Habibannisha)

Ree Copy

Mr  
Khan

Shri D.S.Bawaja,  
AJPM-BRC.

DB/loc/1185

21-9-85

18/10/85

Sub: Settlement dues of Shru Hussain Miya.A.Kami  
Driver, A-DB expired on 22-11-84.

Ref: Employee's representation dt.20-8-84.  
Dear Sir, ---

Shri Hussain Miya.A.Kami asked vol.retirement  
from 30-11-84 under his application dt.20-8-84 but  
it was accepted by your office with effect from  
20-11-84. This was incorrect and unjust since in  
his application he expressed willingness to retire  
from 30-11-84 and therefore his resignation cannot  
be deemed operative from an earlier date.

Union took up the issue vide letter of even no.  
dt.10-2-85 and the same is being chased personally  
also with the S/Mech. Branch but somehow the case has  
been missing strangely and Shri Hussain Miya who  
expired on 22-11-84 has been denied the benefit of  
death in harness for if he would have not been wrong-  
fully given vol.retirement from 20-11-84 instead of  
30-11-84 as requested for by him he would have got  
the benefit as he expired on 22-11-84 that is earlier  
to the due date of vol.retirement.

Will you please, therefore, look into the matter  
and take up the issue for early finalisation to  
mitigate the injustice done to the person.

Yours faithfully,

*Mash*  
Divisional Secretary

C/-PRTW(II)

for JUN 86 Inform  
agenda certain

*M*  
7/5/86

*filed* Copy

*Alru*

*Adru*

12 "E" 1/4  
③ From-Habibannisha w/o late Shri  
Hussammiya A.Kazi, Selafpur  
Behind Agarkar Guest House  
Baroda. date: 28-10-85

To:

Shri Paumshji Saheb (A.P.O - 2)

DRM

DRM office Balapnagar Baroda.

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Sett. Settlement due of Shri Hussammiya A. Kazi.  
Driver A' Dehbar expired on - 22-11-84.

Ref: My application dated - 3-12-84 and Divisional  
secretary W.R.B. Baroda dated - 12-2-85.

Respected Sir,

With reference to the above, I would like to  
say few lines for your kind consideration which  
are as under -

- My husband Shri Hussammiya A.Kazi Driver 'A'  
died on - 22-11-1984. He has asked for Vol. retirement  
from 30-11-84, and it is learnt that the voluntary  
retirement has been accepted by your office from  
20-11-84. Which is incorrect and unjust because in  
his application he has shown his willingness to  
retire from 30-11-84, so no earlier date is permissible  
under rules.

- I have come to know that according to revised  
pension rules the widow of the any late employee  
who have completed his 33 years of service, is  
entitled the full family pension which is eligible  
to that employee upto 7 years but I am not  
getting in that way.

Now you are requested to consider the above  
matter accordingly as it is pending since last about  
one year, and oblige.

Thanking you.

With very Yours faithfully

Ali

Ali

WESTERN RAILWAY

No. E/L/2271

Divisional Office  
Baroda, Dt. 23/7/86

To,  
The Divisional Secretary,  
WREU Baroda

Sub:- Settlement dues of Shri Hussain Miya A.Kazi, Driver A  
DB expired on 22/11/84.

Ref:- Your Letter No. DB/Loco/I/85 Dt. 12/13/2/85 and  
Inf. item No. I/82/85.

.....

The issue raised in the WREU Inf. Item no. I/82/86 was examined and it is revealed that Shri Hussain Miya who resumed duty on 2.10.84 from sickness was appraised by LF DB that his voluntary retirement as requested him has since been accepted with effect from 20/11/84 by Sr DME (E) BRC vide O.O. No. E/L/2271 Dt. 28.9.84 and he was also asked to deposit the tools in store before 20.11.84. The employee at that time did not raise any objection to his retirement with effect from 20.11.84.

In the circumstances, it is deeply regretted and you will also appreciate that it is neither appropriate ~~xxxxxxxxxxxxxx~~ nor possible at this stage to change the date of his voluntary retirement from 20/11/84 to 30/11/84.

In view of the above you are requested to close the above Inf. item.

s/d 22/7/86.  
for DRM (E) BRC.

Copy to:- Sr. DO for inf. please.  
Inf. item I/82/86.

*Take care*

*W.C.*

*Adar*



બેસ્ટન્ રેલવે એન્ડ લોકોડેઝ યુનિયન

# Western Railway Employees' Union (3)

( Regd. Recognised & Affiliated to A. I. R. F. and H. M. S.)

Faramji Road, Near Guards' Running Room, VADODARA-390 005 Tel. No. 682 & 382 (R.W.Y.)

Divisional Chairman :

G. M. Thakar

No. DB/Loco/1/85,  
I-82/86.

Dated: 1-1-1987.

Divisional Secretary :

P. K. Walanj

DIM (E)/BRC.

Divisional Jt. Secretaries :

S. K. Shukla

J. C. Pathak

Sub/ Settlement dues of Shri Hussainmiya  
A. Kazi, Driver 'A'-DB expired on  
22.11.1984.

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Dear SIR,

We are sorry the contents of your office letter No. E/L/2271 dt. 23.7.86 are not acceptable to us.

You are requested, therefore, kindly to link our letter of even No. dt. 12/13.2.85 and 24.9.85 and review the case for justice.

We contend again that the employee had requested for voluntary retirement from 30.11.84 and it was incorrectly accepted from an early date, i.e. 20.11.84. The administration has no right to retire an employee from an earlier date than which is requested by the for voluntary retirement. This tantamounts to removal of employee from service without following prescribed procedure.

Yours faithfully,

Divl. Secretary-BRC.

DELAY & PARTIALITY IS THE ROOT CAUSE OF ALL EVILS

Annex "A" At

(32)

PG

PP

9. R./W. R.

वी 30 वी/वी एल 19  
G 30 B/GL 19

संख्या/No. E/890/1 Misc Vol II

दिनांक/Dated

6 -7- 1987

प्रेषक/From: Divisional Railway Manager

(E.S.H.) Western Railway, Vadodara.

सेवा में/To: Shri. Mahmad Yunus Hussainiya Kazai

C/o Habibanissa Hussainiya Kazai

Jetalpur - Abjumya's Building - Near Agarwal Guest House - Baroda

विषय/Sub: Employment on compassionate ground

संरक्षण/Ref: Your application dated 15.6.87

Your request for employment on compassionate ground has been examined in detail. It is regretted that the same can not be acceded to as your father - Shri Hussainiya was voluntarily retired on 20-11-84 and subsequently expired on 22-11-84.

No further correspondence in this connection will be entertained.

8/2/87

For: Divisional Railway Manager  
(E.S.H.) W.Rly Vadodara

PG  
PP

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O.A.No. 379 of 1987.

Habibunnisa H. Kazi...

.. Applicant.

vs.

Union of India and another....

.. Respondents.

WRITTEN STATEMENT

The respondents humbly beg to submit

Written Statement as under :-

(1) The contents of paras 1 to 5 need no reply.

(2) Regarding para 6(A) it is stated that

deceased Hussainmiya A. Kazi was working as

Driver 'B' under Loco Foreman Dabhoi. It is not

disputed that deceased Hussainmiya A. Kazi gave

an application dated 20-8-1984 for voluntary

retirement and died on 22-11-1984.

(3) The contents of para 6(B) are not disputed.

*Final Court  
Sect. 107, 108  
for review  
Pl. 16/3/84*

12

It is not disputed that applicant gave ~~an~~ application on 3-12-1984 for settlement of dues.

(4) The contents of para 6 (C) are not true and are not admitted. It is stated that the application of deceased Hussainmiya A.Kazi for voluntary retirement dated 20-8-84 was accepted by the Competent Authority with effect from 20-11-84, on completion of 3 months' notice, vide Divisional Office letter No.E/L/2271, dated 28-9-84. A copy of said ~~xxx~~ order is produced herewith and marked as Annexure R/1. It is stated that the deceased was verbally informed on 8-10-84 by Head Clerk (C) Dabhoi Shed about acceptance of his voluntary retirement w.e.f. 20-11-84 on resumption with witness certificate from Railway Doctor after sickness. The deceased filled up all settlement papers on 8-11-84 claiming settlement dues upto 20-11-84 which shows that he knew about acceptance of his voluntary retirement w.e.f. 20-11-84. The deceased deposited ~~the~~ tools on 15-11-84.

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:13 :

A copy of said settlement paper is produced Annex.R/2. herewith and marked as Annexure R/2. It is denied that respondents have arbitrarily retired deceased from 20-11-84, instead of 30-11-84. It is stated that an employee on attaining the age of superannuation retires on the last day of the months.

(5) Regarding para 6(D) it is stated that the Union Secretary, Western Railway Employees Union, Baroda, had taken up the issue vide Ann.D to the petition and he was replied vide letter No.E/L/2271 dated 23-7-86 the settlement dues i.e. D.C.R.G. Rs.18855-85 and commutation of pension Rs.27,184-80 were passed by Accounts Officer vide C06-12/30 and C07-12/9 dated 14-4-85. The said dues were paid to the applicant vide PPO No.BRC/E 789/23/7/1450 dated -5-85. The contents of applicant's application dated 28-10-85 are not fully true and are not admitted.

(6) Regarding para 6(E) it is stated that

: 4 :

respondent had correctly replied vide letter dated 23-7-86. The deceased deposited tools on 15-11-84 and was correctly retired w.e.f. 20-11-84. As stated above, deceased had not raised any objection at that time.

(7) Regarding para 6(F), it is stated that the application dated 12-1-87 preferred by the Union for employment of the son of the deceased was examined by the Competent Authority and replied vide letter dated 8-7-87.

(8) Regarding para 6(G) it is stated that the ~~xx~~ applicant has filed the application for the relief claimed therein. As stated hereinabove, the deceased had retired w.e.f. 20-11-84 A.N. and hence giving employment to his son on compassionate ground does not arise as he was not in service on the date of his death.

As stated hereinabove, settlement dues of deceased are paid to the applicant. The

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applicant has no cause to agitate on any of the grounds mentioned in sub-para (A) to (E).

(A) The contents of grounds (A) and (B) are not true and are denied. It is denied that the respondents have failed to consider their own rules, particularly Rule 2046 which is peri materia to F.R. 56. As stated hereinabove, the deceased had applied for voluntary retirement on 20-8-84. As per extant rules, his voluntary retirement was accepted w.e.f. 20-11-84 on completion of 3 months notice. The deceased did not raise any objection and filled up and signed his settlement papers prepared by the Personnel Inspector accordingly. It is denied that the action of respondents in accepting voluntary retirement w.e.f. 20-11-84 is arbitrary and violative of principles of natural justice.

(B) The contents of para ground (C) are not true and are denied. As the deceased had retired

25  
: 6 :

w.e.f. 20-11-84, he could not have been treated on duty on 22-11-84. The widow would be entitled to the pension permissible under the Rules, but the son is not entitled to appointment on compassionate ground as per Railway Rules.

(C) The contents of ground (D) are not true  
As the deceased died after retirement, the applicant is not entitled to full pension.

(D) The contents of ground (E) are not true  
and are denied. The deceased was working as Driver Gr.B scale Rs.425-640(R) on pay of Rs.515/- at the time of retirement .

(E) The contents of ground (F) are not true. The averment of deceased having taken treatment at Muljibhai Patel Urological Hospital, Nadiad, from 14-11-84 to 22-11-84 does not entitle the deceased to be treated as on duty up to 22-11-84. The tools were deposited by the

210  
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: 7 :

deceased on 15-11-84.

(9) The applicant is not entitled to any of the reliefs claimed in paras 7 and 8 of the application.

In view of what is stated above, the application may be dismissed with costs.

Baroda.

Date: -2-1988.

260 16.3.88

A. Daulatjada  
Divisional Personnel Officer,  
Western Railway, Baroda.

I, Miss D.C.Daulatjada, Divisional Personnel Officer in Western Railway, Baroda, do hereby state that what is stated above is true to my knowledge and information received from the record and I believe the same to be true.

Baroda.

Date: -3-1988.

A. Daulatjada

QD/13/91/51

COPY

WESTERN RAILWAY

Divisional Office, Baroda.  
Dt. 20.2.1984.

27

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E/L/2271

Office orders

Sub:- Vol. retirement of Shri Hussainiya A. Dr.B. DB.

Effect from 20.11.84. His service particulars are as under:-

Date of appointment	1.12.50
Dt. of birth	30.8.31
Designation	Driver (B)
Scale	425-640 (M)
Pay	515/-
Retirement or pension	Pension; 14214.93

for Sr.DME(E) BIC

C/- to: LF DB, OS PB SS/Seniority/Office order file.  
P&P file, OS Settlement with S & 913 S/Co/yr.

  
Manager  
Western Railway  
Vadodara

TRUE/Copy

G 257 F/R 1

FORM NO. 30 B-R II

Formal Application for Pensionary Benefits by the Railway Servant himself

Ann. R/2

38

1. I have opted for Railway Pension Rules, 1950 vide my Option No. dated which was acknowledged by under his No. dated

2. I am due to retire from service on attaining the age of retirement with effect from my date of birth being / I have formality for permission to retire voluntarily from service with effect from 20-11-1970 on completion of years service. I, therefore, request that steps may kindly be taken with a view to the pensionary benefits admissible to me being sanctioned by the date of my retirement.

3. I enclose the following documents :-

i) Declaration (in the form enclosed) regarding non-receipt of any pensionary benefits to which this application refers (vide Rule 2807-RII).

ii) Two copies of passport size (3"x2") photograph/ three copies of joint photograph with wife showing full name and designation duly authenticated by my signature on the back of it.

iii) Two slips (in Form No.8 of MPR) each containing 3 specimen signatures of mine duly attested.

iv.) Two slips (in Form No.9 of MPR) each having 3 sets of my left hand thumb and finger impressions.

v.) Two slips each showing particulars of my height and identification marks.

4. I also enclose slip in Form No. 10 of MPR showing (i) my address after retirement and (ii) the manner/place of which I would like to receive my pensionary benefits. If any change occurs in these before I retire. I will advise the head of my last office.

5. I note that I cannot accept any commercial employment before the expiry of two years from the date of retirement or any employment under a Government outside India at any time, without the prior sanction of the President.

6. I note that I cannot seek employment as contractor for or in connection with the execution of public works (whether of on the railways or under P.W.D. or Defence Forces) or as employee of such contractors within 2 years of my retirement, without the prior of the President.

Husenmeyer Abjumeyer

Backside Badoda Rly

Station - Jetapura - East Howrah

Mean Agorawal Crest Howrah

Signature: Husenmeyer Abjumeyer

Designation: Driver B

Alleged

sd/-

P.I.S.

Present Address:

इंद्रिय इंजीनियर,  
स्ट. Mech. Engineer,  
परियम रेलवे बोर्ड  
Western Rly.

Station: Dabheri

Date: 8-11-81