

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A. No. 585 of 1993

Date of decision : 11.09.2000

Smt. Leelaben Maganlal Dabhi : Petitioner [s]

Mr. P. J. Dave : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr. N. S. Shevde : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. A. S. SANGHAVI : **MEMBER (J)**

THE HON'BLE MR. G.C. SRIVASTAVA : **MEMBER (A)**

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment? ~
2. To be referred to the Reporter or not? ~
3. Whether their Lordships wish to see the fair copy of the judgment? ~
4. Whether it needs to be circulated to other Benches of the Tribunal? ~

Leelabne Maganlal Dabhi,
Block No. 3, Room No. 311,
Govt. 'C' Colony, Opp. Ashok Mills,
Naroda Road, Ahmedabad - 25.

= Applicants =

Advocate : Mr. P. J. Dave

Versus

Union of India
(to be served through the
General Manager, Western Railway,
Church gate, Bombay.

2. The Chief Personnel Officer,
Western Railway, Church gate,
Bombay.
3. The Divisional Railway Manager,
W. Rly., Divisional Office,
Baroda.

= Respondents =

Advocate : Mr. N. S. Shevde

ORAL ORDER
O.A 585 of 93

Date : 11.09.2000

Per Hon'ble Shri. A. S. Sanghavi : Member (J).

Neither the applicant nor his advocate has remained present ^{and} ~~hence~~, proceeded with this O.A. It appears that they are not interested in proceeding with the O.A. Under the circumstances, the O.A is dismissed in default with no order as to costs.

G.C. Srivastava
(G.C. Srivastava)
Member (A)

A. S. Sanghavi
(A.S. Sanghavi)
Member (J)

Mb

CA/TA/RA/CP/ 585193 of 200

Sart. L. M. Dabhi

APPLICANT (s)

VERSUS

4222

RESPONDENT (s)

I N D E X - S H E E T

Certified that the file is complete in all respects.

Signature of S.O. (J)

Signature of Dealing Hand.

Case No. MA ST No. 415792
MA ST No. 416192
in
OA ST No. 162189

The original records of the above case is not available and efforts are made to trace out the file by all members of Judicial section but file is not traced out yet. Thereafter as per Hon. Court order dt. 12-4-93, true copies of this case are produced by Mr P. J. ~~Shah~~ Dave Advocate, ^{on 15-7-93} but following objections yet are to be removed.

(i) In OA ST 162189, vakalatnama is filed by Mr P J Dave, but necessary court fee stamp Rs 4/- is not affixed.

(ii) MA ST 415792 is filed for restoration but copy of the order Hon. Court is not enclosed.

3 Hence we may ask the advocate Mr Dave to remove the objections on 16-7-93 if he visits to Registry.

As per Hon. Court order dt. 5/7/93 the case is adjourned on 20-7-93. Hence we put the case with remarks that two/three minor objections yet are required to be removed.

Apparval
16/7/93 so @ 10

scd
(1)

16-7-93

DRD
16-7-93

71
on/585/93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD

DISTRICT: AHMEDABAD

O.A. st NO. 162 OF 1989
h

Smt. Leelaben M. Dabhi. Applicant
vs.
Union of India & ors. Respondents.

I N D E X

Annexures	Particulars.	Pages.
- 2	Memo of the petition.	1- 16
A-1	Copy of the order giving the Applicant status of temporary employees.	17-
A-2 to A-5.	Copies of the representations made by the applicant to the authorities for the regularisation of her services.	18- 25
A-6.	Copy of the Office Memorandum issued by the Government of India.	26- 27

Ahmedabad:

March 1989

J.J. Yajnik)
Applicant's Advocate.

Copy
ave
G.J. Dave)
Advocate

As per
502 AD
28/11/89

Recd
Per
21/6/89

0051/162189

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD

DISTRICT: AHMEDABAD

O. A. NO.

OF 1989

Smt. Leelaben Maganlal Dabhi,
Block No. 3, Room No. 311,
Govt. 'C' Colony, Opp. Ashok
Mills, Naroda Road, Ahmedabad-25. Applicant

Versus

1. Union of India

(to be served through the
General Manager, Western Railway
Church Gate, Bombay).

2. The Chief Personnel Officer,
Western Railway, Church Gate,
Bombay.

3. The Divisional Railway Manager,
Western Railway, Divisional
Office, Baroda. Respondents.

I. PARTICULARS OF THE APPLICATION:

(a). Particulars of the Applicant:

1. name.	} As stated above.
2. designation	
3. address:	

(b). Particulars of the respondents:

1. names:	} As stated above.
2. Addresses:	
3. Designations:	

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Ch. J. Dave

Advocate

II. Particulars of the order/action impugned
in the Application;

Inaction on the part of the respondents
in regularising the services of the
applicant.

III. Jurisdiction;

In view of the provisions of the Central
Administrative Tribunals Act, this Hon'ble
Tribunal has the jurisdiction to entertain
this Application.

IV. LIMITATION;

As per the provisions of the Act, this
Application is within the time limit.

V. FACTS OF THE CASE:

1. The petitioner is a widow and wife of Ex-Railway servant, who died during the course of employment with the respondent authorities. The husband of the Applicant was serving as a Driver in Ratlam Division. He died on 24-11-68 leaving behind him five children alongwith the petitioner.

True copy

Adave
(P.T. Seves)
Advocate

2. Since the husband of the petitioner died during the course of employment and since the petitioner had no source of livelihood, the petitioner went on making applications and representations to the authorities to employ her on compassionate ground in the service of the respondent authorities. For long time his ^{her} requests were not heard and after pretty long time the petitioner was taken in service as a seasonal water-woman at Asarva, Vatva Baroda Division. Thereafter the petitioner was continued as a seasonal water-woman in the year 1977, 1978 and 1979. Thereafter the petitioner came to be appointed as a ~~daily~~ daily wager by the respondent authorities.

Annex.A-1.

3. The petitioner states that she came to be given temporary status by order dated 30-5-1986 by the respondent authorities, a copy of the said order giving the petitioner temporary status is annexed hereto and marked as Annexure A-1. The petitioner is being continued as substitute - Casual Labour. It was stated in the said order that the grant of temporary status does not mean automatic appointment to the class IV service. The petitioner was granted temporary status with effect from 30-7-1985. Since then the petitioner has been serving with the respondent authorities as a temporary casual labourer to the utmost satisfaction of the authorities. She has been discharging ~~his~~ her duties sincerely, honestly and to the best of his ^{her} ability.

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CPJ. Dave
Advocate

4. The petitioner submits that inspite of the fact that she has been appointed and has been working with the respondent authorities since 1977 onwards, her services have not been regularised. The petitioner has been making requests and representations to the authorities for the regularisation of her services. However, nothing has been done till so far. The petitioner is the only earning member and it is very difficult for her to maintain herself and her family with the meagre salary. The copies of the representations made by the petitioner for the regularisation of her services are annexed hereto and marked as Annexure A-2 to A-5. Over and above these representations various other representations have also been made time and again. The petitioner states that she has been taken as a dependent i.e. wife of a driver who had expired during the course of employment.

Annex. A-2
to A-5

5. The petitioner states that inspite of the above facts she has not been regularised and still has been working as a casual labourer. The petitioner submits that to the information of the petitioner, persons junior to the petitioner have been absorbed in the regular service and the petitioner has not been given the regular service. The petitioner has come to know about the names of two other employees, amongst others, as under:

1. Smt. Manguben Hamantsing - she is junior to the petitioner as water-server.
2. Smt. Rama Pata. -do-

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Have
(P. J. Sewe)
Advocate

(A)

The petitioner states that there are various other employees who have been taken on compassionate ground, whose services have been regularised before the petitioner, inspite of the fact that the petitioner is senior to them. The petitioner calls upon the respondent authorities to produce the particulars before this Hon'ble Tribunal with regard to the employees who have been given appointment on compassionate ground in Vatva-Baroda Division after 1977 onwards. The petitioner each time was being replied that there was no vacancy and other persons were being appointed and regularised. Thus, the petitioner has been discriminated in the matter of regularisation in the regular appointment and persons junior to the petitioner have been regularised. This is illegal and unjust, arbitrary and discriminatory and violative of Articles 14 and 16 of the Constitution of India

6. The petitioner - a widow belonging to the Scheduled caste community having left with no alternative and having failed to get any justice from the authorities, has been constrained to knock the doors of this Hon'ble Tribunal, by way of this humble petition for the regularisation of her services. The action on the part of the respondent authorities in not regularising the services of the petitioner is challenged on the following main amongst other grounds, which are set out without prejudice to one another:

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Dave
(P.J. Dave)
Advocate

- (1). The petitioner submits that inspite of the fact that she has been working with the respondent authorities since the year 1977 onwards as a seasonal waterwoman and there after as a daily wage employee, her services have not been regularised and the persons junior to the petitioner have been regularised in the service of the respondent authorities. The petitioner states that all the time the petitioner represented to the authorities to give her regular appointment, she was told that there was no vacancy. The petitioner states that her husband expired in the year 1968 and thereafter there have been various vacancies in different offices, but the case of the petitioner was not being considered and she came to be given appointment only on the basis of seasonal water woman in the year 1977 only. Thus, right from the very beginning the petitioner has been discriminated against by the authorities. Many persons have been given appointment on compassionate grounds and the case of the petitioner was not considered. Even after giving the petitioner employment persons junior to the petitioner have been regularised and the case of the petitioner is not being considered. The impugned action on the part of the respondents in not regularising the services of the petitioner is arbitrary, discriminatory, violative of Art. 14 and 16 of the constitution and bad in law.

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 Made
 P. J. Saver
 Advocate

(2). The petitioner submits that the Hon'ble Supreme Court of India in the case of Daily Rated Casual Labour employed under P & T Dept. vs. Union of India AIR 1987 S.C. 2342 directed the respondent authorities in that case to regularise the services of the daily rated employees who were working with the department since long. The petitioner herein has been working with the respondent authorities since the year 1977 as a seasonal water woman till 1981 and thereafter she came to be employed as a daily rated employee and she has been given the status of temporary employee with effect from 30-7-1985. Thus, the petitioner has been working with the respondents since long and inspite of her various requests her services have not been regularised. The petitioner states that the Supreme Court in the aforesaid decision directed the authorities even to regularise the services of the daily rated employees who were not regularly recruited, though they were working with them for long time. The relevant ~~xi~~ observations of the Hon'ble Supreme Court reads as under:

"..... The Government cannot take advantage of its dominant position and compel any worker to work even as a casual labourer on starving wages. It may be that the casual labourer has agreed to work on such low wages. That he has done because he has ~~no~~ no other choice. It is poverty that has driven him to that state. The Government should be a ~~no~~ model employer. Therefore, the classification of employees into regularly recruited employees

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 Dave
 C. J. Dave
 Advocate

and casual employees rendering the same kind of services which is being rendered by the regular employees doing the same type of work by the Post and Telegraphs Department for the purpose of paying less than the minimum pay payable to employees in the corresponding regular cadres particularly in the lowest rungs of the department where the pay scales are the lowest would not be tenable. The further classification of casual labourers by the Department into three categories namely (i) those who have not completed 720 days of service and not completed 1200 days of service and (iii) those who have completed more than 1200 days of service for purpose of payment of different rates of wages would also be untenable. There is clearly no justification for doing so. Such a classification is violative of Articles 14 and 16 of the Constitution. It is also opposed to the spirit of Article 7 of the International Government on Economic, Social and Cultural Rights, 1966 which exhorts all States parties to ensure fair wages and equal wages for equal work. It may be true that the casual labourers in the P & T Dept. have not been regularly recruited, but many of them have been working continuously for more than a year in the Dept. and some of them have been engaged as casual labourers for nearly ten years. They are rendering the same kind of service which is being rendered by the regular employees doing the same type of work. Clause (2) of Article 38 of the Constitution of India which contains one of the Directive Principles of State Policy provides that "the State shall, in particular, strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in -

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CPJ Dawry
Advocate

different vocations" Even though the above Directive Principles may not be enforceable as such by virtue of Article 37 of the Constitution of India it may be relied upon by the petitioners to show that in the instant case they have been subjected to hostile discrimination.

Therefore, the Supreme Court directed the Government and other authorities to pay wages to the workmen who are employed as casual labourers belonging to the several categories of employees in the Postal and Telegraphs Department at the rates equivalent to the minimum pay in the pay scales of the regularly employed workers in the corresponding cadre but without any increments. The Supreme Court also directed the authorities to prepare a Scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Post and Telegraphs Department."

In view of the above settled legal position the inaction and omission on the part of the respondent authorities in not absorbing the petitioner in regular service of the ~~post~~ department is absolutely illegal, unjust, arbitrary, discriminatory and violative of Art. 14 and 16 of the Constitution of India. The petitioner as stated earlier, has been working with the respondents right from 1977.

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C. J. Saver
Advocate

- (3). The petitioner states that the Supreme Court in the case of Nehru Yuvak Kendra, 1986 1 LLJ 134 has observed as under:

" We, therefore, allow ~~this~~ the Writ Petitions and make the rule absolute and direct the Central Government Nehru Yuvak Kendra and who are concedly performing the same duties as Class IV employees, the same salary and conditions of service, as are being received by Class IV employees, except regularisation which cannot be done since there are no sanctioned posts. But we hope and trust that posts will be sanctioned by the Central Government in the different Nehru Yuvak Kendras, so that these persons can be regularised. It is not at all desirable that any management and particularly the central Government should continue to - employ persons on casual basis in organisations which have been in existence for over 12 years. The salary and allowances of Class IV employees shall be given to these persons employed in Nehru Yuvak Kendra with effect from the date when they were respectively employed."

It is further submitted that the Hon'ble Supreme Court in the case of Surinder Singh and anr. vs. The Engineering-in-Chief CPWD and ors. AIR 1986 S.C.534 following the aforesaid judgment has held that all the daily rated employees, should be given the same salary and allowances as are paid to regular and permanent employees with effect from the date of employment. The relevant portion of the said judgment reads as under:

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CPJ. Davey
Advocate

"We allow both the Writ Petitions and direct the respondents, as in the Nehru Yuvak Kendras case (supra) to pay to the petitioners and all other daily rated employees to pay the same salary and allowances as are paid to regular and permanent employees with effect from the date when they were respectively employed. The respondents will pay to each of the petitioner a sum of Rs.1000/- towards their costs. We also record our regret that many employees are kept without their services being regularised. We hope that the Government will take appropriate action to regularise the services of all those who have been in continuous employment for more than six months."

It is submitted that, thus the Supreme Court has directed to regularise the services of the employees who have completed six month's service. As stated earlier, the petitioner has been in the service of the respondents right from 1977 and with effect from 1985 she has been given the status of temporary servant. She has been working as a daily wagers from 1981 onwards. In these circumstances ~~when~~ the inaction and omission on the part of the respondents in not regularising the services of the petitioner, more particularly when she has been appointed on compassionate ground, is illegal, unjust, arbitrary, contrary to the settled legal position and violative of Articles 14 and 16 of the Constitution of India.

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CP J. Dave
Advocate

(4). The petitioner submits that it is the practice of the respondent authorities to give compassionate appointment to the dependents of the employees who died ~~in~~ while in service. The petitioner's husband was working as a driver and he died during his service. With great difficulties and after long time the petitioner was given the employment as a seasonal water-women though all other persons claiming such employment have been given regular appointment. The petitioner made various representations to the authorities to give her regular appointment and with great difficulties in the year 1982 she was given the employment as casual labourer only. Only with effect 1985 she has been given the status of the temporary employee and that too ~~his~~ her services have not been regularised. In these circumstances, the impugned inaction and omission on the part of the respondents in not regularising the services of the petitioner is absolutely illegal, unjust arbitrary, discriminatory and bad in law and liable to be set right by this Hon'ble Tribunal by appropriate directions to the authorities.

(5). The petitioner further submits that many persons who were junior to the petitioner and in some case who were entitled to get the compassionate appointment after the petitioner, have been given regular appointment and the petitioner though her husband died in the year 1968 has not been till

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CPJ. save)
Advocate

so far regularised and she has been still working as a daily wager. The petitioner has no other means of livelihood to maintain her and she is facing economic hardships and difficulties. The impugned action on the part of the respondents in regularising the services of juniors to the petitioner is absolutely illegal, unjust, arbitrary and discriminatory and violative of Art. 14 and 16 of the Constitution of India.

- (6). The petitioner further submits that Circular has also been issued by the Ministry of Personnel Training and Administrative Reforms and Public Grievances and Pension, directing the respondent authorities to regularise the services of ~~IV~~ Class IV employees and casual workers, as per the instructions issued in the said Office memorandum 7-5-1985. The petitioner submits that the services of the petitioner are required to be regularised in view of the various office memorandum issued by the Government and the various decisions of the Hon'ble Supreme Court and she is required to be paid the same salary and other allowances as are being paid to other regular employees. Copy of one such circular is annexed hereto and marked as Annexure A.6. Inaction and omission on the part of the respondents in ^{not} ~~not~~ regularising her service is bad and illegal.

Annex A-6

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 D. J. Dave
 CPJ. Davey
 Advocate

7. The petitioner states that she has no other adequate, alternate and efficacious remedy against the substantial injury inflicted upon the petitioner except to approach this Hon'ble Court by way of this humble petition as the petitioner has ~~ex~~ failed to get any justice from the respondent authorities inspite of her various representations and requests.

8. The petitioner has not filed any other petition, appeal or application before this Hon'ble Tribunal or before the Hon'ble Supreme Court of India or before any other Court on the subject matter of this petition.

9. The petitioner craves leave to amend this petition by adding, deleting or amending any of the paragraphs of this Application as and when necessary.

VI. R E L I E F S:

On the grounds stated above and those that may be urged at the time of hearing of this petition, the petitioner prays -

- (A) Be pleased to direct the respondent authorities to regularise the services of the petitioner at least from the date she has been given the temporary status and to confer ~~x~~ upon the petitioner all

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CP-7. Suresh
Advocate

benefits accordingly, such as regular pay scale, difference of salary, arrears of salary, seniority and all such other benefits.

- (B) Be pleased to direct the respondents to pay the petitioner salary and other allowances on the same basis as are being paid to the regular employee from the aforesaid date of at least giving her temporary status in the year 1985, and to give all benefits accordingly, such as arrears of salary etc.
- (C) Be pleased to direct the respondents to treat the petitioner in the regular service of the respondents with effect from the date of conferring upon her the status of temporary employee.
- (D) Be pleased to grant such other and further reliefs as may be deemed just and proper by the Hon'ble Tribunal in the facts and circumstances of this case.
- (E) Be pleased to allow this petition with costs.

VII. INTERIM RELIEF :

Pending admission hearing and final disposal of this petition Your Lordships may be pleased to direct the respondents to pay the petitioner same salary and allowances as are being paid to the regular and permanent employees, regularly.

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CB-3, Davey
Advocate

VIII. PARTICULARS OF THE POSTAL ORDER:

Post Office:

Date:

Amount: Rs 50/-

Postal Order No.: 28 747362
5

And for this act of kindness the
applicant as in duty bound shall for ever
pray.

Ahmedabad:

March 31st, 1989

(J.J.Yajnik)
Petitioner's Advocate.

અહમદાબાદ

(Smt. Leelaben M. Dabhi)
Applicant.

AFFIRMATION

I, Smt. Leelaben Maganlal Dabhi, the applicant
herein do hereby solemnly affirm and state that what
is stated hereinabove in this Application is true to
the best of my knowledge, belief and information and I
believe the same to be true.

Solemnly affirmed at Ahmedabad on this 31st
day of March 1989.

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CPJ. Dave
Advocate.

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17

ANNEXURE A-I

WESTERN RAILWAY

No. ET/615/5/TI/ADI/3 (L)

Divisional Office,
Baroda.

To

Date: 30-5-1986.

SS ASV C/-TI ADI

Sub: Grant of temp. status to the substitutes -
Casual Labourers - Traffic Department - BRC
Division - TI ADI's Unit.

.....

Temporary status in respect of the following Local substitutes is granted from the date shown against their names. They should be given all privileges that are being enjoyed by temporary employment in service. They should also be informed that grant of temporary status does not mean automatic appointment to the class IV service.

Sr. no.	Name of the local substitutes.	Work- ing as.	Station/ HQ	Date from which temp. status is granted.
1.	Smt. Manjulaben	HWM	ASV	30-7-85
2.	Smt. Lilaben M.	HWM	ASV	10-7-85
3.	Smt. Ramkant K. Pandya.	HWM	ASV	30-7-85

Please note that while submitted papers for Workmen appreciation e-tc. in favour of the above substitute, you should invariably mention the date from which temporary status is granted quoting this office reference, otherwise should state as no temporary status is granted.

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CPJ. Saver
Advocate

sd/- for AOS(E) BRC.

From:

Leelaben Maganbhai
Block No.3, Room No.311, Govt. 'C' Colony,
Opp: Ashok Mill Naroda Road,
AHMEDABAD 380 001 (Gujarat).

To:

The General Manager,
Western Railway, Church Gate,
BOMBAY 400 020.

Sub: Request for permanent post: Dependent of
deceased Railway Employee during service:

Ref: My application dated 16-6-81 and others:

Respected Sir,

Most humbly and respectfully, I, the under-
-signed Leelaben Maganlal Dabhi, widow of late Shri
Maganlal Dabhi, Ex. Driver Devgarh, Baroda Division
pray as under:-

That my husband expired during his service
on 24-11-1968 at Dahod Railway Hospital, leaving
myself with five children. There is no one to help
me, as I have submitted my application for job and I
have worked seasonal posts of waterwomen at Asarwa
station and have worked as under:

- | | |
|--------------------|---------------------|
| 1. 1977 - 122 days | 3. 1979 - 105 days |
| 2. 1978 - 122 days | 4. 1980 - 88 days |
| | 5. 1981 - 101 days. |

That Sir, since then I am working as a
seasonal water-woman and facing troubles to maintain
my family. Since 1968, I am praying or crying but
no further action into the above matter and day by
day my position is going from bad to worst.

True (copy)
ENG 1001 20 10 10 10

Moreover, myself is the
member of Sch. Caste:

Yours faithfully,

sd/-

(Leelaben, Maganlal Dabhi)

28-2-82

copy in advance to:

1. Shri. I.R.S? Tulsı, OSD(ER) CCG
2. Shri. DRM(E) BEG
3. S.P.(RF) CCG.for information.

True Copy

* લોકાલેશન મેડાન લાલ

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Arave
C.F. Davis
Advocate

From:

Smt. Leelaben Maganbhai

Block No. 3, Room
no. 311, Govt. 'C'
Colony, Opp: Ashok
Mill, Naroda Road,
AHMEDABAD - 25.
(GUJARAT).

6-1-1984.

To,

DRM(E) RTM

Respected Sir,

Sub: Employment on compassionate ground
after the death of my husband, Shri Maganbhai,
Driver, RTM Division.
.....

My deceased husband, Shri Maganbhai was
working as a Driver in RTM Dn. and expired on 24
24-11-1968.

After the death of my husband, it is
practically impossible for me with my small innocent
children to survive in these very hard days. I
had approached the Baroda Division to give me some
suitable job since I am residing at Ahmedabad but,
DRC(E) BRC replied that vide their letter no E890/1
dated 2/3-12-1983 (copy enclosed) "that there are
large number of widows waiting for employment in
Class IV service for want of suitable vacancies and
as Shri Maganbhai was working as a Driver on RTM
Division, you may approach RTM Division for your
appointment".

Now, since there is no source of income in
these very hard days, I am compelled to approach
your kind honour to request you to offer me some

True Copy
Done
C. J. Sawy
Advocate

.2.

suitable job in Class IV category in RTM Dn. as after the death of my husband, I am facing lot of hardships with my small children.

As I am a widow of a poor Rly. deceased employee unable to get a suitable job elsewhere and now compelled to request your honour to offer me some job as Class IV employee in Railway either at RTH/BRC/ or Ahmedabad at the earliest possible, as my condition is very much pitiable.

I hope your worship will sympathise of my pathetic condition and help me at this critical time and oblige me.

Thanking you,

Yours faithfully,

sd/-

(Smt. Leelaben, w/o Maganbhai Dabhai Ex-Driver, RTM Dn.)

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CAHIGTSHJATC1161

Encl: as above

- cc : DRM(E) BRC with ref. to his letter no. E890/1 dt. 2/3-12-1983.
- cc : GM(E)
- cc : Railway Minister for sympathetic consideration on humanitarian grounds.
- cc : Prime Minister of India for issue of suitable instructions to the concerned authorities to help the poor widow.
- cc : Shri. A.B.A. Chanikhan, Minister for Rly. New Delhi for necessary action.

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C.B.J. save
Advocate

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ANNEXURE A-4

From: Kirit Maganbhai
Block No.3, Room no. 311,
Govt. 'C' Colony,
Opp: Ashok Mills,
Naroda Road,
AHMEDABAD - 25.

Dated : 16-5-1988.

To,

The General Manager,
Western Railway,
Church Gate,
BOMBAY - 20.

Sub : Request for job:- dependent of
Expired Employee during Services-
ON Compassionate Grounds.

.....

Respected Sir,

Most humbly and respectfully, I the undersigned beg to submit the following few lines for your kind and sympathetic consideration please.

That Sir, my father named Shri Maganbhai G. was working as a Driver at Devgarhbaria under Loco formane Dahod in Ratlam Division and he expired during service period on dated 24-11-68. Myself in very minor age and my widow mother in very pitiable position. It is my bad luck and misfortune that in spite of giving the assurance Rly. authorities to give me the permanent job in Rly. in IV category to pull on my life with my widow mother. Therefore, I pray to your kind honour to kindly go through my request sympathetically and give me an opportunity to work under your kind control.

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C. J. Davey
Advocate

The following are my particulars:

- (1) Name: Kiritkumar Maganbhai.
- (2) Father's Name: Maganbhai G. Ex Driver Loco Forman Dahod.
- (3) Date of Birth: 18-4-1965.
- (4) Educational Qualifications: Gujarati Std. 6 th.
- (5) I am a member of Schedule Caste.

Therefore, I pray to your kind honour to kindly go through my request sympathetically and give me an opportunity to work under your kind control. So that myself poor person can get some relief in these hard and critical days.

Thanking you sir in anticipation for giving a great trouble and awaiting for an early order from your kind end.

Yours faithfully.

sd/-

Kiritkumar Maganlal G.

True Copy

ભાલાભાઈ મગાનલાલ

True Copy

Done
C.P.J. Dave
Advocate

By Regd. AD.

ANNEXURE A-5

From: Smt. Leelaben Maganlal D.
Block No. 3, Room no. 311,
Govt. 'C' Colony,
Opp: Ashok Mills,
Naroda Road,
AHMEDABAD - 25. (GUJARAT)

Dt. 14-6-2988.

To,

Shree Bhatia
Chief Personnel Officer,
Western Railway,
Church Gate,
BOMBAY.

Sub : Permanent absorption as water woman in
Baroda division.

.....

Respected Sir,

I, the undersigned, widow of late Maganlal Dabhi Ex-Driver Devgarh RTM Division, have to humbly and respectfully request as under for to consider an oblige my husband was expired on 24-11-68, leaving five children behind him, helpless being no one else earning members.

I had worked as seasonal water woman at ASARVA BRC division for 122 days 1977, 122 days 1978, 105 days in 1979, 88 days in 1980, 101 days in 1981 and till tofay working as seasonal water woman since 1977. I have been granted temporary status slao vide DRM BRC No. ET/615/3/T9/D9/3 (L) from 30-7-85.

I am native of Ahmedabad community wanker (schedule caste) requested DRM BRC to give me p permanent employment, but DRM BRC vide his letter no. E-890/1 dated 3-12-83 regretted and advised me to approach RTM division. Thereafter I am

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CP J. Sawy
Advocate

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helpless without job and in starving position.

I have apprised your office in 1982
vide my application dated 28-2-82 but remained
unattended.

I have applied to DRM(E) RTM on 8-1-84,
but no response till date.

Lastly, to save me and my family
from starving position, request to consider
my case and sympathetise me by giving me
job.

Thanking you,

Yours faithfully,

sd/-

Leelaben Maganlal. *Leelaben Maganlal*

copy to:

DRM(E) BRC & RTM
OSD IR (SC & ST)

HQ. OFFICE, CCG.

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CP-J. Saver
Advocate

No. 49014/18/84-Estt. (C)
Government of Personal of India/Bharat Sarkar
Ministry of Personal & Training, Administrative
Reforms and Public Triesences and Pension
(Department of Personnel and Training)

...

New Delhi, 7 May, 1985.

OFFICE MEMORANDUM

Sub : Regularisation of services of causal workers
in Group 'D' posts-Relaxtion of employment
exchange procedure.

.....

The undersigned is directed to say that services of causal workers may regularised in Group D posts in various Ministries/Department etc. subject to ceratin conditions, in terms of the general instruction issued by this department. One of these conditions is that the causal workers are concerned should have been recrute-
ed through the employment exchange. Sponsorship by the employment exchange being a basic exsential condition for recrutemnt under the Govt. , it has repeatedly been drought to the notice of the various administartive authorities that recruitment of causal workers should always be made through the employment exchange. It had, however, come to the notice of this department that in certain cases were recruited other-
wise than through the employment exbange.

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Advocate

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Though these persons, may have been continuing as casual workers for a number of years, they are not eligible for casual workers and their services may be terminated any time. Having regard to the fact that casual workers belong to the weaker section of the Society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the DGE & T, that casual workers recruited before the issue of these instructions may be considered for regular appointment to Group D posts, in terms of the general instructions, even if they were recruited otherwise than through the employment exchange, provided they are eligible for regular appointment in all other respects.

2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the Employment Exchange. If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official concerned.

sd/-

A. Jayaraman
Director (E).

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D. J. S. S. S.
CP. J. S. S. S.
Advocate

MOS/4/6/92

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD

MISC. APPLN. NO. 560 OF 1992

in

M.A.NO. 589 of 1992

in

O.A.NO. 585 of 1983.

Application for condonation
of delay in filing M.A. for
restoration, of O.A.

Smt. Leelaben M. Dabhi.

..... Applicant

Versus

Union of India & Ors.

.... Respondents.

The applicant abovenamed most respectfully
submits -

1. The applicant states that the aforesaid Original Application has been filed by the Applicant before this Hon'ble Court. However, the same has been dismissed for default on the ground that copy of the Application has not been served on the other side. That reasons appears to be made on account of some misunderstanding. The copy of the petition has been served upon the other side as is evident from the xerox copy of the endorsement of the Advocate of other side Shri J.D. Ajmera. The Applicant therefore, has filed the aforesaid Misc. Application for the restoration of the

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Advocate

O.A. on file. It is submitted that earlier the applicant received communication that no regular Bench is available in the Central Administrative Tribunal and now on coming to know that now the Tribunal has been working in its full swing, she inquired about her Application and recently she came to know that the said O.A. has been dismissed for default. In these circumstances, the applicant has been constrained to file the aforesaid M.A. for restoration.

2. It is submitted that the applicant has recently come to be know about the dismissal of her Application and therefore, it is in the interest of justice to entertain the M.A. for restoration. It is submitted that if there is any delay in filing the aforesaid M.A. for restoration, the same is required to be condoned in the interest of justice in the aforesaid facts and circumstances of the case.

3. The Applicant, therefore, prays -

(A) The Hon'ble Tribunal may be pleased to condone the delay in filing the aforesaid Misc.Application for restoration and be pleased to entertain the M.A. for restoration.

(B) Be pleased to pass such other and further orders as may be deemed just and proper by the Hon'ble Tribunal in the facts and circumstances of this case.

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P.J. Sewer
+ No. case

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And for this act of kindness the petitioner
as in duty bound shall for ever pray-

Ahmedabad:

October 12, 1992

(Smt. Leelaben M. Dabhi)
Applicant

(J.J. Yajnik)
Petitioner's Advocate.

VERIFICATION

I, Smt. Leelabne M. Dabhi, the petitioner
herein do hereby solemnly affirm and state that what
is stated hereinabove in this application is true to
the best of knowledge, belief and information and
I believe the same to be true.

Ahmedabad:

October 12, 1992

(Smt. Leelaben M. Dabhi)
Applicant.

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(P.J. Dave)
Advocate

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MDSH415192

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD

MISC. APPLICATION NO. 559 OF 1993

in

O.A. NO. 545 OF 1983

Application for restora-
tion of O.A. on file.

Smt. Leelaben Maganlal Dabhi,

Block No. 3, Room No. 311,

Govt. 'C' Colony, Opp. Ashok Mills

Naroda Road, Ahmedabad. 25.

.... Applicant

Versus

1. Union of India

(to be served through the

General Manager, Western Railway

Church Gate, Bombay).

2. The Chief Personnel Officer,

Western Railway, Church Gate,

Bombay.

3. The Divisional Railway Manager,

Western Railway, Divisional

Office, Baroda.

.... Respondents

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Advocate

The applicant above named most respectfully submits -

1. The Applicant states that the aforesaid Original Application was filed by the applicant herein, in march 1989 against the respondents herein for confirming the status of temporary employee and other reliefs. Thereafter, in the aforesaid petition objection was noted by the Registry of not serving the copy of the petition to the other side.

2. The applicant states that the copy of the Application was already served to the other side and the xerox copy of the due endorsement of having received the copy by the other side is annexed hereto and marked as Annexure M-1. It is submitted Annex.M-1 that the Union of India being the party, copy of the application was served to the Advocate representing the Union of India. Inspite of the aforesaid endorsement the Application of the Applicant has been dismissed for default on the ground that the copy of the Application has not been served to the other side.

3. The applicant submits that previously there was no regular bench of the Tribunal available and the applicant received a reply that no regular bench is available and therefore, she had not inquired about the same and she was awaiting further reply from the Registry. Recently, when the applicant came to know that now regular bench is available and that the Tribunal has been now working in full swing, she

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Advocate

applicant approached the office of the Hon'ble Tribunal and inquired about her matter. The applicant came to know that the said application has been dismissed for default, which has constrained the Applicant- to file this application for the restoration of the original application, in view of the aforesaid facts and circumstances of the case.

4. The Applicant, therefore, prays -

(A) The Hon'ble Tribunal may be pleased to restore the aforesaid original application on file and be pleased to direct the registry to register the same and be pleased to direct that the same be pleased for hearing before the Hon'ble Tribunal.

(B) Be pleased to pass such other and further orders as may be deemed just and proper by the Hon'ble Tribunal.

And for this act of kindness the applicant as in duty bound shall for ever pray.

Ahmedabad:

October 12, 1992

(Smt. Leelaben M. Dabhi)

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Dawe
C.S. Davey
Advocate

(J.J. Yajnik)
Applicant's Advocate.

VERIFICATION

I, Smt. Leelaben Maganlal Dabhi, the Applicant herein do hereby solemnly affirm and state that what is stated hereinabove in this Misc. Application is true to the best of my knowledge, belief and information and I believe the same to be true. The Annexures are the true copies of the documents purported to be the originals.

Ahmedabad:

October 12, 1992.

(Smt. Leelaben M. Dabhi)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH AT AHMEDABAD

MISC. APPLICATION NO. OF 1992

IN

M.A. NO. OF 1992

IN

O.A. NO. OF 1989

Smt. Leelaben M. Dabhi.

... Applicant

Versus

Union of India & Ors.

... Respondents.

A F F I D A V I T
.....

I, Smt. Leelaben Maganlal Dabhi, the Applicant herein do hereby solemnly affirm and state that what is stated hereinabove in this two Misc. Applications is true to the best of my knowledge, belief and information and I believe the same to be true. The Annexures are the true copies of the documents purported to be originals.

A H M E D A B A D .

D A T E :- 14/7/1993

.....
(Smt. Leelaben M. Dabhi)

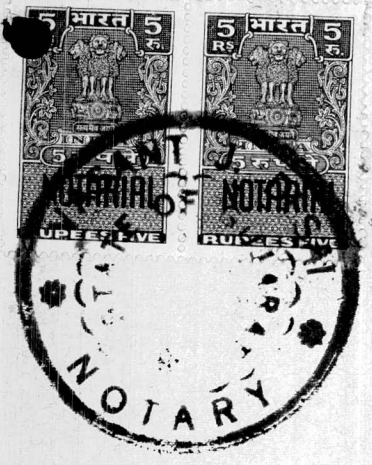
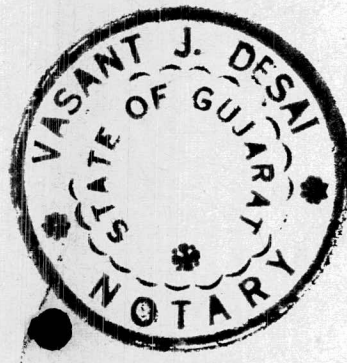
Explained & interpreted in Gujarati to the deponent by me.

Dashrath S. Patel
Advocate.

Identified by me

R. A. Desai
Advocate Clarks.

S NO. 46889 1993
SOLEMNLY AFFIRMED
BEFORE ME
V. G. Desai
NOTARY
DI 14-7-93



CDhagn-157193

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO. 585 OF 1993

Lilaben M Dabhi.....

...Applicant

V/s

Union of India & Ors....

...Respondents

REPLY ON BEHALF OF
RESPONDENTS OPPOS-
ING ADMISSION.

The respondents humbly beg to file this reply in response to notice issued by the Hon'ble Tribunal opposing admission as under:-

1. This reply is filed only for the purpose of opposing admission and the respondents reserve their right to file additional/further reply as and when necessary.
2. Contents of paras 1 to ⁴/₃ need no reply.
3. Regarding para 5.1, it is stated that the husband of the applicant was working as driver at Dohad in Ratlam Division. He died on 24.11.68.

It is not disputed that the applicant's husband died in harness.

Recd
Cm
Have
C.S. J. Sane
Associate
4/11/97

Presented by the
Deputy Secy. to Govt.
Shinde today 04.11.68
begun the work
died in harness.
Court Secy. T.

4. Regarding para 5.2, it is stated that the applicant was engaged as hot weather water^{wo}man in the year April, 1977 in Baroda Division and at present is working as hot w^{wo}ather water^{wo}man/substitute water woman at Asarva. The applicant was being engaged as a water-woman in the summer season from time to time as per availability of work. Initially, the applicant was engaged as a water woman during hot wheather on daily rated basis.

5. Regarding para 5.3, the respondents rely on the Memorandum dated 30.5.86 by which the applicant is granted temporary status from 30.7.85. At that time the applicant was working as hot w^{wo}ather water woman at A^a-srva. The applicant is at present being engaged as a substitute in leave and sick vacancies as per availability of work. It is not disputed that the order of granting temporary status does not mean automatic absorption to Class IV service. A casual labour/substitute is granted temporary status on completion of minimum required days of continuous service and on grant of such temporary status is entitled to certain benefits like scale rate of pay, increment, leave, medical, passes, etc. A casual labour/substitute with temporary status has to be screened and empanelled for absorption in class IV service according to rules. A screened casual labour/substitute placed on panel is regularised according

his turn. At present the applicant is working as a substitute waterwoman at Asarva in leave & sick vacancies/hot wheather waterwoman.

6. Contents of para 5.4 are not fully true and are not admitted. The services of the applicant could not be regularised as she could not be called for screened on the basis of total number of days working as persons who had put in more number of days working were also waiting for screening. The representations produced by the applicant at Annexures A/2 to A/5 are without any merit. The said representations are not available on the concerned file of the applicant. The applicant has not produced any material to show that the said representations are served on the railway administration. It is denied that the applicant has made other representations over and above the aforesaid four representations, which are produced by the applicant at Annexures A/2 to A/5. The applicant ^{can} could be considered for screening according to her turn and eligibility. It is submitted that at the time of screening held in July, 1989 the applicant had put in 1394 days of working and the last person who was placed on the panel had put in 1906 days working. As such the applicant was not called for screening at that time and hence the question of placing her on the panel or regular absorption in Class IV service ~~do~~ did not arise.

7. Contents of para 5.5 are not fully true

are not admitted. It is denied that the applicant is working as a casual labour even to-day. It is denied that persons junior to the applicant are absorbed in regular service but the applicant has not been given regular service. It is denied that Smt. Manguben Himatsingh and Smt. Rama Pata, who are junior to the applicant as water servers are regularised in preference to the applicant and the applicant is discriminated as alleged. It is denied that many other persons who are taken up on compassionate ground are regularised before the applicant even though they are junior to the applicant as alleged. The averments of the applicant are vague and without any material. The applicant has not given the names of persons who are junior to the applicant but are regularised in preference to her. The request of the applicant to direct the respondents to produce the list of employees, who have been given appointment on compassionate ground in Vatwa-Baroda Division after 1977 onwards, ^{is without any merit.} It is denied that the applicant was being replied every time that there is no vacancy and other persons were being appointed and regularised. It is denied that the applicant has been discriminated in the matter of regularisation in regular appointment and persons junior to the applicant are regularised. It is denied that the impugned action of the respondents is illegal, unjust, arbitrary and violative of Articles 14 & 16 of the Constitution of India.

The applicant has not given the names of her juniors who are alleged to have been regularised in preference to her and as such it is not possible to examine the ~~same~~ said averments. The applicant has not given any particulars regarding date of engagement, place of working, etc., of Smt. Mangu H. & Smt. Rama Pata and hence it is not possible to offer any remarks. The respondents submit that no such water women named by the applicant are regularised or appointment as alleged by the applicant. The railway administration offers employment on compassionate ground to the widow/ward of a deceased railway employee who dies in harness in accordance with merit of each case on different posts. A person working on a particular post is considered for regularisation in accordance with the rules applicable to the said post. It is denied that the applicant was being replied that there is no vacancy but other persons were being appointed and regularised as alleged. According to the record of the respondents no person junior to the applicant working at Asarva has been regularised in preference to the applicant. There is no violation of Articles 14 & 16 of the Constitution of India.

8. Contents of para 5.6 are not fully true and are not admitted. The applicant could be regularised in accordance with the rules only when her turn comes for that purpose. It is submitted that the applicant

has since been screened and placed on ^{panel} ~~pane~~ of suitable candidates for absorption in Class IV at serial No.19 and will be regularised according to her turn. The applicant has no cause to approach this Hon'ble Tribunal for regularisation. None of the grounds of challenge taken by the applicant exists.

(1) Contents of ground (1) are not true and are not admitted. It is denied that persons junior to the applicant have been regularised in service ignoring the claim of the applicant. The applicant has not given any details of her juniors who are alleged to have been regularised. It is submitted that the screenings are conducted from time to time for the vacancies assessed and casual labours/substitutes are called for screening according to their turn and eligibility. It is denied that the applicant is being discriminated by the respondents by not offering her employment on compassionate ground for a period of nine years as alleged. The case of the applicant was not considered for regularisation in past in 1989 as the applicant had not put in sufficient number of days of working continuously and persons senior to her were called for screening to fill up the assessed number of vacancies. As stated herein above, the applicant has since been screened and empanelled and will be regularised as per her turn.

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(2) Contents of ground (2) are not fully true and are not admitted. The judgement delivered by the Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under Post & Telegraph Department V/s Union of India reported in AIR 1987 SC 2342 is in a matter P & T Department and is not applicable to the applicant. The respondents rely on the ratio of the said judgement as and when necessary. It is denied that the applicant, who was working as a seasonal water-woman from 1977 to 1981 was employed as a daily rated employee and was granted temporary status from 30.7.85 as alleged. It is submitted that a casual labour is initially engaged on daily rated basis and is granted temporary status on completion of the requisite period of continuous working. It is submitted that there is no inaction on the part of the respondents in not regularising the applicant. The averments are without any merit.

(3) Contents of ground (3) are not fully true and are not admitted. The judgements delivered by the Hon'ble Supreme Court in the case of Nehru Yuvak Kendra reported in 1986 1 LLJ 134 and in the case of Surindarsingh & Another V/s The Engineering-In-Chief, CPWD & Others reported in AIR 1986 SC 534 are not applicable to the applicant's case. The said two judgements are delivered by the Hon'ble Supreme

in the matters arising from employees of different Departments. The applicant is being ^{given the benefit} ~~being~~ ~~paid~~ scale rate, increment, medical, passes, etc., from the date of grant of temporary status to her. The applicant was to be regularised only as per her turn.

(4) Regarding ground (4), it is stated that the respondents, who offered employment on compassionate ground to the widow/wards of deceased railway employee, who dies in harness on merit of each case. The applicant has since been ^{ce} ~~scrined~~ & empanlled for regularisation in Class IV according to her turn and eligibility and will be regularised when her turn~~x~~ comes according to her rank on the panel.

(5) Contents of ground (5) are not true and are not admitted. As stated herein above, widow/ward of a deceased railway employee dying in harness is offered employment on compassionate ground on merit of each case. The educational qualification, age, etc., are also taken into consideration while offering such appointments. The applicant has been working as a substituted and hence the question of her having no other means of livelihood or facing economic hardship and difficulties does not arise. The applicant is being paid wages, etc., which are admissible to her under the rules.

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(6) Regarding ground (6), it is submitted that the railway administration has to follow and implement the Circulars issued by the Railway Board. The Circulars issued by other Departments of the Central Government are not applicable to the Railways unless they are accepted and made applicable to the Railway Departments by the Railway Board. The applicant has not supplied the copy of Annexure A/6 along with the O.A. The applicant is being paid wages admissible to her.

(7) Contents of grounds (7) to (9) are procedural and need no reply.

9. The applicant is not entitled to any of the reliefs claimed in para 6 of the application.

10. The applicant is not entitled to any interim order as prayed for in para 7 of the application.

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

VERIFICATION.

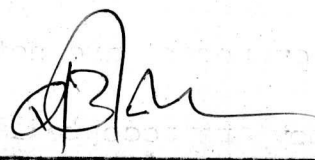
I, B.N.Meena, age about 36 years, son of Shri R.N.Meena, working as Senior Divisional Personnel Officer, Western Railway, Baroda and residing at Baroda do hereby state that what

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is stated above is true to my knowledge and
information received from the record of the case and
I believe the same to be true. I have not suppressed
any material facts.

Baroda

Dated: 2.4.1994


Senior Divisional Personnel Officer,
Western Railway, Baroda.

File 4.4.94

