

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 501 OF 1990

Date of decision: *January 18, 1994*

Smt. Khulana Pahi	...	Applicant
	Versus	
Union of India & Others	...	Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *NO*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? *NO*

Km 18.1.94

(K.P. ACHARYA)
VICE-CHAIRMAN

(24)

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Smt. Khulana Pahi ... Applicant
Versus
Union of India & Others ... Respondents
For the Applicant ... M/s. D. Palit, B. Mohanty,
A. Kanungo, N. Patra,
Advocates.
For the Respondents ... Mr. L. Mohapatra,
Standing Counsel (Railways)
For the Respondent No. 6 ... M/s. A. Mohapatra, G.C.
Patnaik, R.C. Sahoo, J.M.
Rout, Advocates.
...

C O R A M :-

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

J U D G M E N T

K.P. ACHARYA, V.C.

In this application under Section 19 of the Administrative Tribunals Act, 1985, the Petitioner Shrimati Khulana Pahi prays for a direction to be issued to the Opposite Parties to give her an appointment on compassionate ground under the rehabilitation scheme commensurate with her educational qualification and further more, Opposite Party No. 6 (Shri Benudhar Pahi) be restrained from working any further as a Gangman (Casual Labourer) personifying himself as Alekh Pahi and a further direction be given to Opposite Party No. 4 to refund the salary received by him from the appropriate authority on his misrepresentation.

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2. Shortly stated the case of the Petitioner Shrimati Khulana Pahi is that she is the widow of one Alekh Prasad Pahi who was working as Gangman (casual Labourer) under P.W.I. Jajpur Road who died on 17th December, 1979. Petitioner made several representations to the appropriate authority for giving her an appointment under the rehabilitation scheme as the petitioner had read up to class VI. While the matter stood thus, it came to the knowledge of the petitioner that Opposite Party No. 6, Shri Benudhar Pahi, representing himself as Alekh Prasad Pahi and illegally utilising the Identity Card of her deceased husband has been working as a Gangman with the help of Opposite Party No. 5 namely P.W.I. Jajpur Road and therefore, the petitioner's request for appointment on compassionate ground is not being acceded to. This fact was also brought to the notice of Opposite Party No. 4 namely the District Engineer, South Eastern Railway, Cuttack. Even though the death certificate of Alekh Pahi was filed before the Opposite Party No. 4 as required by him to effect an enquiry, no steps were ever taken by Opposite Party No. 4 and therefore, the petitioner approached this Bench with a grievance which formed subject matter of Original application No. 400 of 1988. The Bench directed that all documents should be produced before the Opposite Party No. 3, who had figured as Opp. Party No. 2 in the said petition and the petitioner after having duly complied with the

said order, still then, the District Engineer did not give any protection to the petitioner for which she had no other alternative but to approach this Bench making a prayer as mentioned above.

3. No counter has been filed on behalf of the Opposite Parties.

4. I have heard Mr. Biswajit Mohanty learned counsel appearing for the Petitioner, Mr. L. Mohapatra learned Standing Counsel for the Railway Administration and Mr. A. Mohapatra learned counsel appearing for the Opposite Party No. 5.

5. Objection was raised in this case on behalf of Opposite Party No. 6 that the Petitioner Smt. Khulana Pahi is coming up with a false story that Opposite Party No. 6 is not Alekha Pahi and that his name is Benudhar Pahi. Further case of Opposite Party No. 6 is that the name of the husband of the Petitioner Smt. Khulana Pahi is Batula Pahi who is the younger brother of Opposite Party No. 6 and therefore, the question of issuing of a direction to the Railway Authorities restraining the Opposite Party No. 6 from doing the work of a Gangman (Casual Labourer) does not arise especially because Opposite Party No. 6 has been working as a Gangman for a very long time even before the husband of the petitioner Smt. Khulana Pahi died. Therefore, according to Opposite Party No. 6, the

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case is a false one and hence being devoid of merit is liable to be dismissed.

6. No specific case was put forward on behalf of the Railway Administration. In the peculiar facts and nature of the case, for the ends of justice, I thought it best and proper to record the evidence of Khulana Pahi, Petitioner, and Opposite Party No. 6 and the Witnesses who were sought to be examined on behalf of Opposite Party No. 6.

7. The Initial question that needs determination is as to whether Opposite Party No. 6 is actually Alekha Pahi or Benudhar Pahi. This finding will ultimately lead the Bench to the irresistible conclusion as to whether the petitioner, Smt. Khulana Pahi is entitled to a compassionate appointment.

8. Opposite Party No. 6 was examined as Court witness No. 1. No doubt he personified himself as Alekha Prasad Pahi and further stated in his evidence that the Petitioner Smt. Khulana Pahi is the widow of Batula Pahi who was his younger brother and he is since dead. This witness was cross-examined by the learned counsel appearing for the Petitioner Smt. Khulana Pahi. In his examination in Chief, the witness stated that his eldest son is Ramesh Pahi who is reading in Class X of Jakhapura High School

It was further asserted by this witness namely Opposite Party No.6 that his second son is Laxman Pahi who is also reading in Class X of the same School and his third son Bharat is also reading in Class VII in the same school. During cross-examination, it was admitted by this witness that a sale deed has been executed by Khulana Pahi (Petitioner) in favour of his sons Ramachandra, Laxman and Bharat and this witness is in possession of the property conveyed under the sale deed executed by Smt. Khulana Pahi in favour of his sons. The witness pleads ignorance of the fact that in the sale deed, the Petitioner Smt. Khulana Pahi described herself as wife of Alekha Pahi. He further admits in the cross-examination that there is only one man in his village by the name of Alekha Pahi. The Headmaster of Jakhapura High School was summoned to produce the admission register of Jakhapura High School (who was examined as Court Witness No.2) and therein it is found that vide entry No.1326/20 it is mentioned that the above mentioned Ramesh Chandra Pahi is the son of Benudhar Pahi of village Jakhapura and Ramesh was admitted in the School on 18th July, 1989. Vide entry No.1423/30 Laxman Pahi has been described as son of Benudhar Pahi of village Jakhapura and was admitted to Class VIII of the School on 18.7.1990.

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During cross-examination, this witness while identifying Opposite Party No. 6, present in court stated that he is not Alekha Pahi but Benudhar Pahi. The witness further asserted that he is the neighbour of Benudhar Pahi and Alekha Pahi and knows the entire family very well. He further stated that Khula Pahi, the Petitioner is the widow of Alekha pahi and the nick name of Alekha was Batuaa. He further asserted in cross-examination that Ramesh and Laxman are the sons of Benudhar pahi, whom he was identified in court and the said man is not Alekha Pahi who is since dead. I have given my careful consideration to the cross-examination directed by Mr. A. Mohapatra against this witness and I find nothing to come to a conclusion that the above mentioned evidence ^{deposed to} ~~adduced~~ by this witness during examination or during cross-examination by Mr. Biswajit Mohanty has been dislodged in any manner whatsoever. On the contrary I have absolutely no iota of doubt in my mind to hold that this witness namely the Headmaster of Jakhapura High School, is a most reliable and truthful person and he has nothing to grind his axe against Opposite Party No. 6. He has stated nothing but the truth especially

effect
 because his evidence to the effect that Opposite Party No.6 is Benudhar Pahi and not Alekha Pahi has not been dislodged or discredited in any manner whatsoever. The oral evidence of the headmaster stands strongly and unimpeachably corroborated by the documentary evidence namely the entries in the admission register. 'MEN MAY LIE BUT DOCUMENTS WILL NOT'. Therefore, without least hesitation in my mind, I feel inclined to place implicit reliance on the evidence of this witness. Court witness No.3 is Shri Kamadeb Satpathy who is the headmaster of Jakhapura M.E. School. He had also produced the admission register. Vide entry No.39/2834 dated 15th July, 1989 the third son of Opposite Party No.6 namely Bharatchandra Pahi, was admitted to the school on 15th July, 1989 and he has been designated as the son of Benudhar Pahi. Nothing has been elicited during the cross-examination to discredit this witness. Therefore, equally I feel inclined to place implicit reliance on the evidence of this witness. Opposite Party No.6 has been examined his wife Smt. Saraswati Pahi who has stated in her evidence that she is the wife of Alekha Pahi. During examination in chief, she stated that she was not in a position to either affirm or deny that the father's name of her son has been recorded in the school admission register as Benudhar Pahi. During examination she states that she does not know any person of her village by the

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name of Benudhar Pahi. Taking into consideration the entire evidence on record, I am of opinion, that this witness namely Smt. Saraswati Pahi is a blatant liar. It would be dangerous and hazardous to place any reliance on the evidence of this witness when she says that she does not know any person by the name of Benudhar Pahi of her village especially when Ramesh, Laxman and Bharat who are admittedly her sons have been designated as sons of Benudhar Pahi. Two other witness namely M/s. Sanatan Brahma and Ananda Chandra Dhal have been examined on behalf of Opposite Party No. 6. They assert that Opposite Party No. 6 is Alekh Pahi and not Benudhar Pahi. On a careful consideration of their evidence, their oral evidence is directly contradictory to the documentary evidence namely the entries in the school admission register and the report given by an employee in the Postal Department. Summons/notices were issued to OP No. 6 personifying him as Alekha Pahi. The postal peon reported that Alekh Pahi is long since dead. Therefore, I am not prepared to place any reliance on the evidence of OP No. 6, his wife Saraswati and M/s. Sanatan Brahma and Ananda Dhal who could be confidently designated as blatant liars having least regard for truth. Smt. Khulana Pahi, petitioner has been examined and she states that she is the widow of Alekha Pahi. I have noting on record to disbelieve her statement specially in the face of the entries found in the school admission Register. Taking into account the totality of the circumstances mentioned above and

the cumulative effect of the entire evidence discussed above, I have absolutely no doubt in my mind to hold that the Petitioner Smt. Khulana Pahi is the widow of Alekha Pahi who was working as a Gangman under the P.W.I. Jajpur and after his death Opposite Party No.6 namely Benudhar Pahi has falsely personified himself as Alekha Pahi and has been working by misutilising the identity card issued in favour of Alekha Pahi. In ordinary circumstances I would have directed that the services of Benudhar Pahi, Opposite Party No.6 ^{having} falsely personified himself as Alekha Pahi should be immediately dispensed with but in these hard days when people are moving from pillar to post for a plate of rice, I do not like to deprive him of the same, if the Railway Administration feels inclined to allow him to continue to discharge his duties as a Gangman by the name of Benudhar Pahi. This is entirely left to the discretion of the Railway Administration. But the Petitioner Smt. Khulana Pahi is a widow and her husband has died issue less. She has nobody to depend upon to sustain her livelihood. She is going with begging bowls. Here is a case where the General Manager, South Eastern Railway should take utmost sympathy on the petitioner Smt. Khulana Pahi and give her a compassionate appointment

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under the rehabilitation scheme commensurate with her educational qualification preferably within ninety days from the date of receipt of a copy of the judgment.

9. Thus, the application is accordingly disposed of leaving the parties to bear their own costs.

[Handwritten signature]
18.1.94

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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack

January 18, 1994/K. Mohanty.