

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE O.A. 123 OF 1989

NAME OF THE PARTIES Bramod Goniyal Applicant

Versus

Union of India Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Dated O.A. 6-11

Counter Signed.....

Rajesh Singh
23/11/2011
Section Officer in charge

[Signature]
Signature of the
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

16.1989.

Registration No. 123 of 1989(L)

APPLICANT(S) Pramod Gauriyal

RESPONDENT(S) Union of India & Ors

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ?
2. a) Is the application in the prescribed form ?
b) Is the application in paper book form ?
c) Have six complete sets of the application been filed ?
3. a) Is the appeal in time ?
b) If not, by how many days it is beyond time?
c) Has sufficient case for not making the application in time, been filed?
4. Has the document of authorisation/ Vakalatnama been filed ?
5. Is the application accompanied by B.D./Postal Order for Rs.50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?
c) Are the documents referred to in (a) above neatly typed in double space ?
8. Has the index of documents been filed and paging done properly ?
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?

yes.

yes

yes

yes

yes

No

yes

yes

yes

yes

yes

yes

yes

yes

yes

No

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures
 Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

Yes

No

Yes

No

No

No

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 123 of 198 9 (9)

APPELLANT
APPLICANT

P. Gaurang

VERSUS

DEFENDANT
RESPONDENT

U. O.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
---------------------------------	--	--

20.7.04

9-8-89

No Settlement Adj. to 9.0.04

Hon'ble Mr. D.K. Agrawal, J.M.

Shri S.C. Dhasmania learned counsel for the applicant is present and heard.

Admit.

Issue notice to respondents to file counter reply within six weeks to which the applicant may file rejoinder within two weeks thereafter.

List this case on 1-11-89 for hearing/orders.

MEMBER (J)

(rrm)

Hon' Mr. L.K. Agrawal, J.M.

1/11/89

None is present for the applicant. The respondents seeks adjournment to file reply. Allowed. Let counter reply be filed within four weeks to which the applicant may file rejoinder within 2 weeks thereafter. List this case for orders/hearing as the case may be on 22-1-90.

J.M.

(sns)

No Settlement Adj. to 16/2/90.
Applicant in person is present.

orl
notice given
8/11/89

on
Notices were issued on 11.0.04.
Neither reply nor any unserved reply. Cover has been returned.

Submitted for order on 22/1/90

original order on main petition

22/1

A3

DA. 123/89(L)

28/6/91

Hon. Mr. K. Obayya, Am.
from Mr. S. R. Prasad, Jm.

On the request of the learned
Counsel for both the parties list
for final hearing on 12/9/91.

✓

Jm.

Am.

②

12.9.91

No setting aside to 2.11.91

②



CA 123/89(L)

AM

8-11-91

Hon. Mr. Justice U.C. Srivastava, VC
Hon. Mr. A.B. Corli, A.M.

Adjourned this case on
23-1-92 for hearing.

↓

A.M.

VC

23-1-92

No Sing of D.B. adj to 24.3.92

24.3.92

No Sing of D.B. adj to
7.5.92

7.5.92

No Sing of D.B. adj
to 14.7.92

or
case is ready
for hearing
SPH
for

Dated: 14.7.1992

Hon'ble Mr. Justice U.C. Srivastava, VC
Hon'ble Mr. K. Obayya, Member (A)

The learned counsel for the
applicant seeks adjournment. The case is
adjourned to 17.7.1992.

A.M.

VC

O.R.

CA/RA have 17.7.92 - case not reached adj to
been exchanged, 4.8.92

S.P.O.

4.8.92 Case re-reached adj to
31.8.92 12.10.92

D
Noz.

or
Pae

OA 123/09C

4.3.93

No. 5.11.93 of D.M. self
or 10.3.93

115

Recd. Book of
Hindu Marriage
Act, 1955.

Mansingh Pandey
21/4/93 Advocate
for S.C. Dhasmana
Advocate
Counsel for Applicant.

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 123 of 1989

Pramod Goniya & Others Applicants

Versus

Union of India & Others Respondents

Hon'ble Mr. Justice U.C.Srivastava,V.C.

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava,V.C.)

The applicant no. 1 claiming himself to be son of one Govind Ram Gauniyal and the applicant no. 2 as his widow and the applicant no. 3 who undisputedly was a legally wedded wife of the Said Govind Ram Gauniyal who obtained a decree of divorce against her in the year 1982 have approached the tribunal for getting compassionate appointment in place of the Said Govind Ram Gauniyal who was employed as Assistant in the S.O.(R)'s section of the office of the Director General, Research Designs and Standard organisation, Lucknow, He expired on 4.11.1987 after completing 30 years of service and had still some more period to go for attaining the age of superannuation, left behind a mother i.e. the applicant no. 3 and the applicant no. 2 said to be second wife and three more children from Kaushilya Gauniyal. After his death, the applicant applied for compassionate appointment in place of the said Govind Ram Gauniyal and made representations in this behalf, this was also done by Smt. Kaushilya Gauniyal and Dikka Devi, the mother of the said Govind Ram Gauniyal who also executed a will in favour of these children of Smt. Kaushilya Gauniyal as per grand sons being sons of her son Govind Ram Gauniyal, but the compassionate appointment was not given to the applicant on the ground that he was not the son of Govind Ram Gauniyal and if even marriage with applicant no. 1-

:: 3 ::

said marriage was void. Sri Dhasmana learned counsel for the applicant contended that even if marriage was void but there is no denial of this crucial fact that the applicant is son of the said Govind Ram Gauniyal and as such he was entitled to the benefits of section 16 of the Hindu Marriage Act, which reads as under :-

"Legitimacy of Children of void and voidable Marriage :-

(i) "Notwithstanding that a marriage is null and void under section 11, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act."

In view of section 16 sub-clause (i) although, the marriage with his mother was void marriage, the applicant will be deemed to be legitimate child and in view of the fact, his case for compassionate appointment could have been considered. There appears to be hardly any denial of this fact that the applicant was brought ^{up} by the said Govind Ram Gauniyal as his son and his mother and children were dependent on him. Too much technicality was not ~~to~~ ^{seen} to be ⁱⁿ ~~carried~~ ^{by} the matter of compassionate appointment and the applicant's case for compassionate appointment in the name of Govind Ram Gauniyal could have been considered. ~~The~~ ^{the} compassionate appointment could

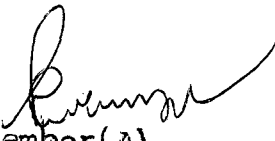
Contd..4/-


W

:: 4 ::

have been given to him, that could not have been made by dependence on any conclusive proof. that in fact, he was a legitimate child ~~xxx~~ or his mother was a legally married wife.

4. Accordingly, the respondents are directed to consider the case of the applicant and as far as possible give him an appointment in the first available vacancy in place of his father taking into consideration the fact that no one who applied or prior to him on this very ground is still waiting for his turn to come. With these observations, the application is disposed of. No order as to costs.


Member(A)


Vice-Chairman

Lucknow Dated: 10.3.1993

(RKA)

Deputy Registrar(J)

AD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

Lucknow Circuit Bench, Lucknow.

Registration No. 123 of 1989.

Pramod Goniyal & others. Applicants.

Versus

Union of India & others. Respondents.

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Lucknow:

Dated: 1 - 6 - 1989.

S C Dhasmana
(Sunit Chandra Dhasmana)
Advocate,

Counsel for the Applicants.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW CIRCUIT BENCH, LUCKNOW.
Registration No. 123 of 1989(4)

Application Under Section 19 of the
Administrative Tribunals Act, 1985.

1. Pramod Ganiyal, through his natural mother, guardian and next friend Smt. Kaushlya Ganiyal, un-employed, son of Sri Govind Ram Ganiyal (Deceased), who was employed as Assistant in the S.O.(R)'s Section of the office of the Director General, Research Designs & Standard Organisation, Manak Nagar, Lucknow.
2. Smt. Kaushlya Ganiyal, unemployed, widow of Late Sri Govind Ram Ganiyal, who was employed as Assistant in the S.O.(R)'s Section of the office of the Director General, Research Designs & Standard Organisation, Manak Nagar, Lucknow,
3. Smt. Dikka Devi Ganiyal, unemployed, widow of Late Sri Dharma Nand Ganiyal and mother of Late Sri K Govind Ram Ganiyal, who was employed as Assistant in the S.O.(R)'s Section of the office of Director General, Research Designs & Standard Organisation, Manak Nagar, Lucknow.

..... Applicants.
D. T. of Smt. Dikka Devi Ganiyal

all residents of House of Smt.
Asha Gaisain, Deep Nagar,
(Dhindhra H Kehra) ~~Manak Nagar~~ *Manak*
~~Manak Nagar~~, Lucknow..... Applicants.

Versus

1. Union of India through the
Secretary to the Govt. of India,
Ministry of Railways (Railway
Department) Rail Bhawan, New Delhi.
2. The Secretary, Railway
Board, Rail Bhawan, New Delhi.
3. The Director General, Research
Designs & Standard Organisation,
Ministry of Railways, Central
Government of India (Union of
India), Manak Nagar, Lucknow. Respondents.

DETAILS OF APPLICATION.

1. Particulars of the order against which
application is made.

The application is against the following
order : -

- (i) Order no.88/ER-I /RDSO (Repn.)-1.
- (ii) Dated 11 - 4 - 1989.
- (iii) Passed by the Secretary, Railway Board.
- (iv) Subject in brief:- The case of applicant
no. 1 is for appointment
in RDSO on compassionate
grounds was not agreed
to.

कोशल्या गौनियल

2. Jurisdiction of the Tribunal

The applicants declare that the subject matter
of the order against which they want redressal
is within the jurisdiction of the Tribunal.

*R.T.S. of Smt.
Dibha Devi
Gauriyal*

3. Limitation

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

4. Facts of the case.

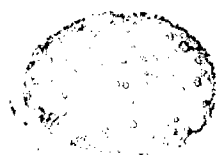
4(1) That Late Sri Govind Ram Gauniyal was employed as Assistant in the S.O.(R)'s Section of the office of the Director General, Research Designs and Standard Organisation, Manak Nagar, Lucknow, and on 4-11-1987 he expired while in active Government service. A true photocopy of Death Certificate is annexed herewith as Annexure no. 1 to this application.

4(2) That Late Sri Govind Ram Gauniyal was a permanent employee of respondents and had rendered about 35 years service.

4(3) That Late Sri Govind Ram Gauniyal had left behind, (i) His old mother Smt. Dikka Devi Gauniyal, (applicant no. 3), (ii) His wife Smt. Kaushlya Gauniyal, applicant no. 2, (iii) his sons, Pramod Gauniyal, applicant no. 1 and Sri Manoj Gauniyal and Sri Vinod Gauniyal (iv) and his daughter Km. Sobha Gauniyal.

4(4) That the aforesaid persons named in para 4(3) above were solely dependent on the deceased Sri Govind Ram Gauniyal.

कौशल्या गौनियाल



R.T.I. of Smt. Dikka
Devi Gauniyal.

4 (5) That the applicant no. 2 of this application is an uneducated lady and is aged about 43 years , while the applicant no. 3 is an illiterate old women of 85 years of age and remains mostly confined to bed due to illness.

4(6) That the date of birth of applicant no. 1, Pramod Gauniyal is 30-12-1971, and he had passed the High School Examination of the Board of High School and Intermediate Examination, U.P. in the First Division with Science subjects in the year 1987, from the Railway High School Manak Nagar, Lucknow . Thereafter he had also appeared in the Intermediate (Class XII) Examination this year as a Regular student of K.K.V. Inter. College, Lucknow. *and has passed this exams in Second Division*
A true photo copy of High School Certificate of applicant no.1 is annexed herewith as Annexure no. 2 to this application.

4(7) That the other children of the aforesaid deceased Sri Govind Ram Gauniyal are studying and are too young namely Sri Manoj Gauniyal aged 15 years, Km. Sobha Gauniyal aged 13 years and Sri Vinod Gauniyal aged 11 years.

4(8) That the Union of India had provided for immediate employment of one of the dependants (son / daughter / near relative) of the deceased Government servant , on compassionate grounds so that the dependants of the deceased

कौशल्या गौनियल



R.T.I. of Shri. Dibha
Dev. Gauniyal,

employee may not suffer starvation. The Govt. order also provides for relaxation of age limit. A true photo-copy of extract of relevant G.O. is annexed herewith as Annexure no. 3 to this application.

4(9) That the applicant no. 1 is fully entitled for appointment on compassionate grounds to support the ex family members left by the deceased Sri Govind Ram Gauniyal, (persons named in para ⁴6(3) above, and to save them from starvation as there is no earning member.

4(10) That on 14-12-1987 the applicant no. 1 had submitted his written representation before respondent no. 3 requesting therein for giving him a suitable appointment on compassionate grounds in lieu of the sad demise of his father Sri Govind Ram Gauniyal, who had expired on 4 - 11 - 1987.

4(11) That thereafter again on 12-2-1988 the applicant no. 1 had submitted his representation before respondent no. 3. Thereafter on 2-9-1988 the applicant no. 1 had sent his representation before the Hon'ble Railway Minister for appointment as his father had died in active service. A true copy of representation dated 2-9-1988 is annexed herewith as Annexure no. 4 to this application.

4(12) That the applicant no. 1 had also sent his representation dated 21-3-1988 before respondents nos. 2 and 3, and dated 25-3-1988, 24-12-1988 before the Deputy Minister of Railways, and

कौशल्या जी बियाल

R. T. E. of Govt.
Disha Devi
Gauniyal

dated 13-1-1989 and 13-3-1989 before the Hon'ble Minister, Railways. On 15-11-1988 a legal notice was also sent by the applicants to the respondents. True copies of representation dated 13-3-1989 (with annexures) and legal notice dated 15-11-1988 are annexed herewith as Annexures nos. 5 and 6 to this application.

4(13) That the Civil Judge, Malihabad, Lucknow in case no.122/88, Smt. Dikka Devi Ganiyal Vs. ..Estate of late Govind Ram Ganiyal, on 4-2-1989, had issued the succession certificate in favour of applicant no.3, grand-mother of applicant no. 1. True copy of this order dated 4-2-1989 is annexed as Annexure no.7 to this application.

4(14) That the applicant no. 1 is fully eligible and is entitled for appointment under respondents w.e.f. 14-12-1987, when he had firstly applied for appointment on compassionate grounds.

4(15) That the applicant no.1 Pramod Ganiyal and his brothers and sister were allowed Railway passes, re-imbursement of School tuition fees and also medical facilities. A true copy of chart showing reimbursement of tuition fees is annexed herewith as Annexure no. 8 to this application.

4(16) That the respondent no.2 by his order dated 11-4-1989 has summarily rejected the case of applicant no.1 for appointment on compassionate grounds, in an arbitrary manner. A true copy of order dated 11-4-1989 is annexed as Annexure no.9 to this application.

कौशल्या गोनियाल

P.T.I. of Smt. Dikka
Devi Ganiyal

5. Grounds for relief with legal provisions.

(i) Because the applicant no.1 is fully qualified and eligible for being appointed in the R.D.S.O.

(ii) Because the applicant no.1 has to support his grand-mother (Applicant no.3) and mother (applicant no.2) and also his two younger brothers and one sister.

(iii) Because there is no earning member in the family and there is no other source of income.

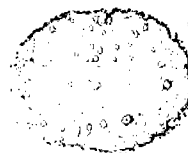
(iv) Because the father of applicant no.1 had died in active service and the provisions of G.O. dated 30-6-1987 fully apply in the case for compassionate appointment in the R.D.S.O.

(v) Because the date of birth of applicant no.1 is 30-12-1971 and the age limit should be relaxed in accordance with G.O. dated 30-6-1987.

(vi) Because the applicant no.1 had passed the High School Examination in the year 1987 and had appeared in the Intermediate Examination this year and has passed it.

(vii) Because this application is jointly filed by the applicant no. 1, his mother and grand mother to seek redressal for appointment, on compassionate grounds, of applicant no.1 who is the eldest son of the deceased Sri Govind Ram Gamiyal.

कौशल्या गौनियल



R.T.I. of Lt. Diksha
Dev Gamiyal

(viii) Because the applicant no.1 and his brothers and sister were getting reimbursement of tuition fees, facility of railway passes and medical facility during active service of their father Late Sri Govind Ram Gauriyal.

(ix) Because the impugned letter / order dated 11 - 4 - 1989 is non-speaking and unreasoned and being arbitrary is liable to be set aside.

(x) Because the actions of respondents are violative of Articles 14, 16 and 300 A of the Constitution of India and is also against the provisions of principles of natural justice.

6. Details of remedies exhausted :

The applicants declare that they have availed of all the remedies available to them under the relevant service rules etc.

The representations were submitted before the respondent no.3 on 14-12-1987, 12-2-1988 and 21-3-1988. The applicant no.1 had also submitted representation before respondent no.2 on 21-3-1988 and before the Minister for Railways on 2-9-1988 (Annexure no.4), 13-1-1989 and 13-3-89 (Annexure no.5). The representations were also submitted to the Deputy Minister for Railways on 25-3-1988 and 24-12-1988. The respondent no. 2 had rejected the representations by order dated 11-4-1989 (Annexure no.9 to application).

कौशल्या गौनियल



R.F.I of Mr. Dilsha
Deri Gauriyal.

7. Matters not previously filed or pending
with any other court:

The applicants further declare that ~~xx~~ they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court ~~or~~ or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief's sought:

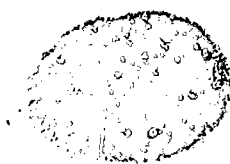
In view of the facts mentioned in para 4 above, the applicants pray for the following reliefs : -

(a) To issue an order or direction setting aside the impugned order dated 11-4-1989 contained in Annexure no. 9 in this application.

(b) To issue an order or direction to respondents nos. 1 to 3 to appoint the applicant no.1, Pramod Ganiyal, on compassionate grounds in R.D.S.O. w.e.f. 14-12-1987, with all the consequential benefits.

(c) To issue such other order or direction including an order as to cost, which in the circumstances of the case this Hon'ble Tribunal may deem just and proper.

कौशल्या गौनिवाल



R.T. I. of Lt. Diksha
Dev. Ganiyal.

9. PRAYER FOR INTERIM ORDER.

Pending final decision on the application the applicants seek issue of the following interim order : -

To issue an interim order and direction to the respondents to appoint the applicant no.1 immediately in the R.D.S.O. during pendency of this application.

10. The application is being presented by the applicants through their Counsel.

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

- (i) Number of Indian Postal Order .. DD 780099
- (ii) Name of the issuing Post Office.. G.P.O. Lucknow.
- (iii) Date of issue of postal order .. 26-5-1989.
- (iv) Post Office at which payable ... G.P.O. Lucknow.

12. List of enclosures.

- (1) Copy of Death Certificate .
- (2) Copy of High School Certificate of applicant no. 1.
- (3) Copy of extract of G.O. dated 30-6-1987.
- (4) Copy of representation dated 2-9-1988.
- (5) Copy of representation dated 13-3-1989
- (6) Copy of legal notice dated 15-11-1988.
- (7) Copy of order dated 4-2-1989 for grant of succession certificate.

- (8) True copy of chart showing reimbursement of tuition fees.

काश्या गोविन्द

R.T.I. of Govt
Disha Devi
Gauriyal

(9) Copy of impugned order dated 11-4-1989.

Lucknow:

Dated : 1 - 6 - 1989.

कौशल्या गौनियाल

Applicant no. 2

R.T.I. of
Smt. Dikka

Dev Gauriyal

Applicant no. 3.

VERIFICATION.

We, Smt. Kaushlya Gauniyal aged about 43 years and Smt. Dikka Devi Gauniyal aged about 85 years, widow and mother respectively of late Sri Govind Ram Gauniyal Ex- Assistant of R.D.S.O., both residents of house of Smt. Asha Gaisain, Deep Nagar, Dhindha Kehra, P.O. Manak Nagar, Lucknow, do hereby verify that the contents of paras 1, 2, 3, 4(1), 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), 4(10), 4(11), 4(12), 4(13), 4(15), 6, 7, 10, 11 and 12 of this application are true to our own knowledge and those of paras 4(8), 4(9), 4(14), 4(16), 5, 8, and 9 thereof are believed to be true by us and that we have not suppressed any material fact.

Lucknow:

Dated: 1 - 6 - 1989.

कौशल्या गौनियाल

Applicant no. 2

R.T.I. of
Smt. Dikka

Dev Gauriyal

Applicant no. 3

To

The Registrar,
Lucknow Circuit Bench,
Lucknow.

I identify both the applicants who have signed / affixed Thumb Impression before me.

S.D. Sharma
(Sunit Chandra Dhasmana) Adv.,

Counsel for the Applicants.

Impugned Order

— 38 —

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW CIRCUIT BENCH, LUCKNOW.

A22

Pramod Gauniyal & others. Applicants.

Versus

Union of India & others. Respondents.

ANNEXURE NO. 9

(original)

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

रेल मंत्रालय
Min. of Railway
महानगर
R.D.S.O. -11
13 APR 1989
केन हा नं०
C. Dy. No (22)

No. 88/ER-I/RDSO (Repn.)-1. New Delhi, dated 11-4-1989.

Shri Pramod Gauniyal,
House No. B-36/3,
R.D.S.O. Colony,
Manak Nagar,
LUCKNOW-226 011.

SUB: Appointment of Shri Pramod Gauniyal,
son of late Shri Govind Ram Gauniyal,
Ex.Assistant, R.D.S.O., Lucknow, on
compassionate grounds.

.....

Please refer to your representation dated 13.3.1989
addressed to the Minister of State for Railways received
through Shri Kamal Nath, M.P., on subject referred to above.

2. The case of your appointment in R.D.S.O. on
compassionate grounds was considered in this office and,
it is regretted to say, the same has not been agreed to.

C. L. Mina

(C.L. MINA)

for Secretary, Railway Board.

कौशल्या गौनियाल

R.T.I. Officer,
Dikha Devi
Gauniyal.

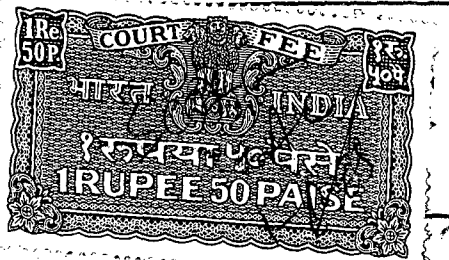
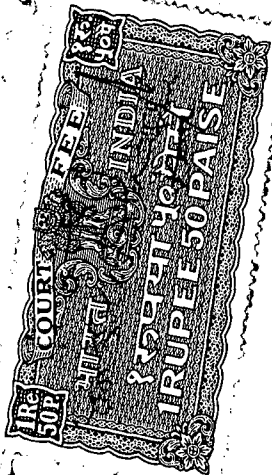
Original Copy
S.D. Hasan

अदालत धीमान
[वादी अपीलान्त]
प्रतिवादी [रिस्पाडेन्ट]

In the Central Administrative Tribunal
Lucknow Circuit Bench, Lucknow
श्री ... *Shri ...*
... *...*
... *...*

वकालतनामा

123



Pranod Gauriyal & others.
वादी (अपीलान्त)
Versus
Union of India & others

बनाम

प्रतिवादी (रिस्पाडेन्ट)

नं० मुकद्दमा

सन् 1989

पेशी को ता० 26-5-1989 ई०
1-6-89

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री *Sunit Chandra* ... *S. Y. K.*
... *Dharmana* वकील *Kulshrestha*
... *...* महोदय *...*
C-1050, Indira Nagar, Lucknow

नाम अदालत
मुकद्दमा नं०
नाम फरीकैन

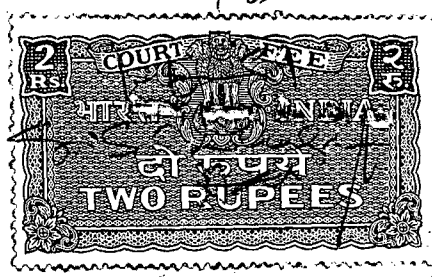
को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवें।

Accepted
1-6-89

हस्ताक्षर ... *R.T.1.*
SHRI DEVI GAURİYAL
कोशल्या शो निगाल

साक्षी (गवाह) ... साक्षी (गवाह) ...
दिनांक ... 26/5/89 ... सन् 1989 ई०
स्वीकृत ...

S. Dharmana
...
26-5-1989
1-6-89



A24

-- i --

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
Lucknow Circuit Bench, Lucknow.
Registration No. of 1989.

Application Under Section 19 of the
Administrative Tribunals Act, 1985.

1. Pramod Gauniyal, aged about 18 years son of Late Sri Govind Ram Gauniyal, through his natural mother ^{guardian} and next friend Smt. Kaushlya Gauniyal .

2. Smt. Kaushlya Gauniyal aged about 43 years, widow of Late Sri Govind Ram Gauniyal.

3. Smt. Dikka Devi Gauniyal aged about 85 years, widow of Late Sri Dharma Nand Gauniyal and mother of Late Sri Govind Ram Gauniyal.

All residents of House of Smt. Asha Gusain, Deep Nagar, (Dhindha Kehra), P.O. Manak Nagar, Lucknow. Applicants.

Versus

1. Union of India through the Secretary to the Govt. of India, Ministry of Railways (Railway Department) Rail Bhawan, New Delhi.

श्री प्रमोद गौनियल
I. of
Smt. Kaushlya Gauniyal

A25

2. The Secretary, Railway Board,
Rail Bhawan, New Delhi.
3. The Director General, Research
Designs & Standard Organisation,
Ministry of Railways, Central
Government of India (Union of
India), Manak Nagar, Lucknow. Respondents.

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3.	Annexure no.2 (True copy of High School Certificate)	13.
4.	Annexure no.3 (True copy of extract of G.O. Dt. 30-6-1987)	14.
5.	Annexure no.4 (True copy of representation dated 2-9-1988)	15 - 16.
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7.	Annexure no. 6 (True copy of Legal Notice dt. 15-11-1988)	29 to 33.
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Lucknow:

Dated: 1 - 6 - 1989.

कौशल्या गौनियाल

Applicant no. 2

Applicant no. 3

through: (Sunit Chandra Dasmana) *[Signature]*

Advocate,

Counsel for the Applicants.

A26

(iii)

For use in Tribunal's Office

Date of filing
or
Date of receipt by post
Registration No.
Signature
For Registrar.

कौशल्या गौरीमाल

P.T.I. of
Smt. Disha Devi
Gramyal.

1727

IN THE CENTRAL ADMI

Lucknow

Pramod Gauriyal & othe

Versu

Union of India & other

प्रकरण संख्या १०

(नियम ६ देखिए)

उत्तर प्रदेश सरकार

स्वास्थ्य विभाग

मृत्यु का प्रमाण-पत्र

जन्म और

रजिस्ट्रेशन

जारी किया

प्रमाणित किया जाता है कि निम्नलिखित मृत्यु के मूल अभिलेख से ली गई है जो

के जिला के तहसील के
(स्थानीय क्षेत्र)

नाम गोविन्द राम गोविन्द राष्ट्रीयता
लिंग स्थायी पता
.....

मृत्यु का दिनांक 4-11-87
मृत्यु का स्थान
पिता/माता/पति का नाम
जारी करने वाले प्राधिकारी के हस्ताक्षर
दिनांक 9-11-87
.....

टिप्पणी — मृत्यु की दशा में मृत्यु के कारण के सम्बन्ध में विशिष्टियाँ जैसा कि रजिस्टर में प्रविष्ट
उपधारा १७ (१) का प्रतिबन्धात्मक खण्ड

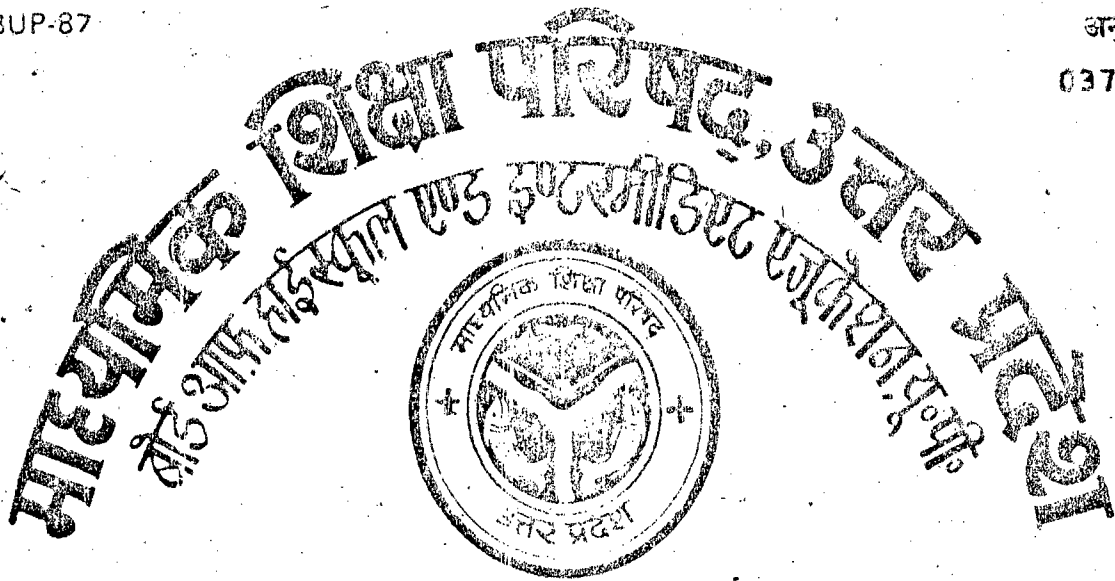
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13 — Ar20
In the Central Tribunal, Lucknow Circuit Bench
LUCKNOW.
Reg. NO. of 1989

Pranod Gauniyal & others — — — — Applicants
Versus
Union of India & others — — — — Respondents
Annexure NO. 2

HSIBUP-87

अनुक्रमांक
0378955



हाई स्कूल परीक्षा, १९८७

प्रमाणित किया जाता है कि परिषद के अभिलेखानुसार

PRANOD GAUNIYAL

आत्मज श्री **GOVIND RAM GAUNIYAL**

ने जिनकी जन्मतिथि

THIRTIETH DECEMBER NINETEEN HUNDRED SEVENTY ONE

हे. मार्च/अप्रैल, १९८७ की हाईस्कूल परीक्षा निम्नलिखित विवरण के अनुसार उत्तीर्ण की है :—

विषय :— HINDI ENGLISH C MATHEMATICS TWO
SCIENCE TWO SOCIAL SCIENCE BIOLOGY D
CATEGORY OF MORAL EDUCATION-A

उत्तीर्ण श्रेणी **FIRST**

विद्यालय/केन्द्र **RAILWAY HS SCHOOL MANAKNAGAR LUCKNOW**

प्र. क्रमांक इलाहाबाद दिनांक
17033/87 22ND JUNE 1987

महानन्द मिश्र
(महानन्द मिश्र)

D का अर्थ सम्बन्धित विषय में 'विशेष योग्यता' है।
HONOURS का अर्थ 'सम्मान सहित उत्तीर्ण' है।
टीपः—विषय का पूर्ण विवरण पृष्ठ भाग पर आंकित है।

Attested True copy
S.D. Sharma
Associate

०९
काश्या श्री मिराल

R.T.I. of
Shri. Disha
Dai
Gaunyal

In the Circuit Central Tribunal, Lucknow Circuit Bench
LUCKNOW

Reg No. of 1989

P 29

Pramod Gaunigal & others --- Applicants
Versus

Union of India & others --- Respondents.

Annexure No. 3

APPENDIX 2

EXTRACT

COMPASSIONATE APPOINTMENT OF SON/DAUGHTER/NEAR RELATIVE OF DECEASED
GOVERNMENT SERVANT/GOVERNMENT SERVANT RETIRED ON MEDICAL GROUND

G.I. Dept. of Personnel & Training, O.M. No 14014/6786-Estt.(D),
dated the 30th June, 1987.

to 3 X X X

4. Eligibility

- (a) Compassionate appointments can be made only against direct recruitment quota.
- (b) Applicant for compassionate appointment should be appointed only if they are eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.
- (c) Departments are, however, competent to relax temporarily educational qualifications in the case of appointment at the lowest level, i.e., Group 'D' or L.D.C. post in exceptional circumstances where the condition of the family is very hard. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the persons concerned if still unqualified, are liable to be terminated.
- (d) Where a widow is appointed on compassionate ground to a Group 'D' post, she will be exempted from the requirements of educational qualifications, provided the duties of the post can be satisfactorily performed without having the educational qualifications of Middle standard prescribed in the Recruitment Rules.
- (e) In deserving cases even where there is an earning member in the family, a son/daughter/near relative of the deceased Government servant, leaving his family in distress may be considered for appointment with the prior approval of the Secretary of the Department concerned who, before approving the appointment, will satisfy himself that the grant of concession is justified having regard to the number of dependents, the assets and liabilities left by the deceased Government servant, the income of the earning member is residing the family of the deceased Government servant and whether he should not be a source of support to the other members of the family.

5. X X X X

6. Relaxation :-

- (a) Recruitment procedure, i.e. without the agency of the staff Selection Commission or Employment Exchange.
- (b) Age limit wherever necessary. The relaxation of lower age limit should not be below 14 years of age.
- (c) Educational qualification to the extent stated in para 4 above.
- (d) Clearance from Surplus Cell of this Department/Directorate General of Employment and Training.

Attested True by
[Signature]
[Signature]

R.T. of
[Signature]
[Signature]

In the Central Administrative Tribunal, Lucknow
Pramed Gauniyal & others - Vs - Union of India & others.

SELER-11100

00000

Annexure No. 4

15

To,

Hon'ble Shri Madhava Rao Seindia,
Minister of Railway's
Rail Mantralaya,
NEW DELHI.

A30

Sub : Representation on behalf of Pramed Gauniyal
S/o Late Shri Govind Ram Gauniyal R/o No.
B-36/3, R.D.S.O. Railway Colony, Manak Nagar,
Lucknow, for appointment on compassionate
grounds Vice late Sri Govind Ram Gauniyal,
Ex-Assistant in S.O.(R) Section of the R.D.S.O.
Lucknow on any post in the abovesaid Deptt.

MAY IT PLEASE YOUR MOST EXALTED GRACIOUS HONOUR:

The Applicant abovesaid most humbly and
respectfully begs to submit the following few lines
for your kind, sympathetic and favourable consideration.

- 1) That the applicant is the eldest son of the
deceased Sri Govind Ram Gauniyal who breathed his
last on 4-11-87 and had put in about 35 years of
meritorious service, and has left the following
dependent members in his bereaved family :
 - a) The applicant's Grand mother Smt. Dika Devi
aged about 85 years, an illiterate.
 - b) The applicant's Grand aunt (widowed sister of late
Sri Govind Ram Gauniyal) Smt. Maheshwari Devi, aged
about 60 years also an uneducated lady.
 - c) The applicant's mother Smt. Kaushalya Gauniyal
(widow of late Shri Govind Ram Gauniyal) aged
about 42 years, also an uneducated lady.
 - d) The applicant, aged 17 years, studying in Class
XII at K.K.V. Inter College, Lucknow, having passed
High School Examinations of the Board of High School
and Intermediate Education, U.P. Allahabad in
FIRST DIVISION with Science subjects from Railway
High School, Manak Nagar, Lucknow Photostat copy of
High School Certificate is enclosed for ready reference
 - e) Applicant's younger brother Master Manej Gauniyal, aged
about 15 years, studying in Class XII.
 - f) Km. Shabha Gauniyal-Applciant's younger sister aged
about 13 years, studying in Class VIII.
 - g) Applicant's Youngest Brother Master Vinod Gauniyal,
aged about 11 years, studying in Class VII.
- 2) That there is no other person to look after and support
the family left behind by late Shri Govind Ram Gauniyal except
the applicant.
- 3) That it is a fit and genuine case that one person of
the family is entitled for appointment on compassionate grounds
to support the family left by late Shri Govind Ram Gauniyal.
- 4) That out of the dependent members, only the applicant
can look after the bereaved family. All other members are
either too old or too young.

Attested True by
S.Dham

R.T.I. of
Smt. Dika Devi
Pramed Gauniyal

Contd...2

— 16 —

— 16 —
A31

11 2 11

5) That the widow of late Shri G.R. Gauniyal is a house-hold woman and she is incapable of doing any work in the office and her presence is most required at home to look after the youngsters and the aged members of the family and moreover she has no academic qualifications.

6) That though the applicant is still a minor, but vide G.I. Deptt. of Personnel & Training O.M. No. 14014/6/86-Estt.(D) dated the 30 June, 1987 he is entitled for age exemption/relaxation.

7) That during these hard days, when the prices and cost of living are looking sharp, your honour would appreciate the said and unfortunate plight of the family and would kindly take the trouble for rescuing the drowning and sinking the family boat from the impending catastrophe.

It is therefore, most fervently appealed that the applicant be most kindly and benevolently appointed on an post in the abovesaid Department on compassionate grounds as has been the practice and thus save the distressed family from the unfortunate disaster.

Thanking you,

Note: The case file of Mr. Govind Ram Gauniyal is A/EP 944.

Yours faithfully,

Pranod Gauniyal
(Pranod Gauniyal)
S/O late Shri G.R. Gauniyal
B-36/3 R.D.S.O. Railway Col
Manak Nagar, Lucknow.
Pin : 226011.

Dated:-

2/9/88

Attested True Copy
S.D. Sharma
Adv

वीरगंगा गौनियल

R.T.I of
Smt. Diksha
Der Gauniyal.

In the Central Administrative Tribunal
Lucknow Circuit Bench,
Lucknow. A32

— 17 —

Pramod Gauniyal & others --- Applicants
Versus
Union of India & others --- Respondents.

Annexure NO. 5

REGISTERED/A.D.

To

Hon'ble Mr. Madhav Rao Scindia,
Minister of State for Railways,
Govt. of India,
Rail Bhawan,
NEW DELHI - 110 001

Subject : Representation in addition to the Representation dated 13.1.1989 by PRAMOD GAUNIYAL, son of Late Govind Ram Gauniyal, resident of B-36/3, R.D.S.O. Colony, Manak Nagar, Lucknow for appointment on compassionate grounds vice Late Sri Govind Ram Gauniyal Ex. Asstt/R.D.S.O.

Ref: File No. 88/ERI/RDSO (Repn) 1.

Hon'ble Sir,

The above named applicant most humbly and respectfully begs to submit following additional facts in relation to the representation dated 13.1.1989 bearing above reference, for your kind consideration:-

1. That the applicant's deceased father Late Sri Govind Ram Gauniyal gave divorce to his first wife Smt. Maha Devi, on 15.5.1967 as per the rites and customs as prevalent in the village Pali, Patti Khatali, Dist. Kashi, Pauri Garhwal (U.P.) which was approved and consented by the five Village Panch and the Gram Pradhan of the Panchayat of Village Pali & Accordingly the aforesaid marriage was dissolved on 15.5.1967 (A photostat copy of the same is annexed herewith as Annexure No. 1).
2. That after obtaining the aforesaid divorce, my deceased father married with my natural mother Smt. Kaushalya Gauniyal on 2.2.1968 as per Hindu rites and customs at Dehradun (U.P.). (A photostat copy of the marriage invitation card and the marriage certificate dated 8.12.1987 is being filed herewith as Annexure No. 2 and 3 respectively).

Contd...2.

Attested True Copy
S.D. Dharan

कौशल्या गौनियाल R.H. of
Smt. Dharan

ALV

Dev Gauniyal

— 19 —

— 20 —

-3-

7. That though I am at present only about 18 years old (Date of Birth: 13.12.1971) I am ~~xxx~~ entitled to any suitable appointment on compassionate grounds being the eldest son of the deceased. (A photostat of the G.O. dated 30.6.1987 is filed herewith as Annexure No. 8).

8. That at present our grand mother and mother of my afore-said deceased father, Smt. Dibha Devi Gauniyal is also dependent on me for her survival.

9. That at present my 2 brothers and 1 sister all are studying and my mother Smt. Kaushalya Gauniyal is an uneducated lady. Our family is facing grave financial crisis and there is no one to look after us.

In view of the aforesaid, it is most respectfully prayed that your Goodself may be pleased to give me a suitable appointment in your esteemed department at the earliest and oblige.

Thanking you,

Yours faithfully

Pranod Gauniyal

(PRANOD GAUNIYAL)

S/o Late Shri Govind Ram Gauniyal
Applicant

House No. B - 36/3, R.D.S.O. Colony
Manak Nagar, Lucknow 226011

Dated: 13-3-1989.

Encl: As detailed above.

कौशल्या गौबीयाल

Attested True Copy
/ Dharm
AR

RTI of
Shri. Dibha
Devi Gauniyal

Annexure (W) of

Annexure 5

मैं कि गोविन्दराम गौनियाल पुत्र स्वर्गीय धर्मोत्तम गौनिये
ग्राम पाली 'खारली' जिला पौड़ी गढ़वाल हाल पूर्व सी.
आर. डी. मस. ओ. यम. सेड. सी. डाइरेक्टरेट चितरंजन
जिला - बर्दवान (पंजाब) तुम श्रीमती महांदेवी ओ कि
आज तक मेरी पत्नी पी. को इस आसम से लगा प
हैं कि चितरंजन में रहते हुये तुम्हारे दुश्चरित्र कारणों
से मुझे तुमसे अपने सम्बन्ध समाप्त कर देने पड़े। क्योंकि -
मैंने स्वयं अपनी ओरों से तुम्हें अपने निवास पर बुलाने
करते हुये पाया।

इसके बाद मैं घर आकर तुम्हें तुम्हारे माथे में
स्वयं डोड़ आया। आज से तुम्हारा और मेरा कोई संबंध
न रहा। इस आसम से तुम्हें यह लिखित सम्बन्ध
विच्छेद पत्र दे रहा हूँ। ताकि तुम भविष्य में किसी
प्रकार अफसस का उल्लास न कर सको, और यह
भविष्य के लिये सम्बन्ध विच्छेद की सनद रहे।

दिनांक १५/५/३७

गोविन्दराम गौनियाल
(गोविन्दराम गौनियाल)

"हरलाक्षर पत्र"

ग्राम - पाली
पट्टी - खारली
पो. - कसाभी
पौड़ी गढ़वाल

१- (द. ग.) श्रीमती महांदेवी

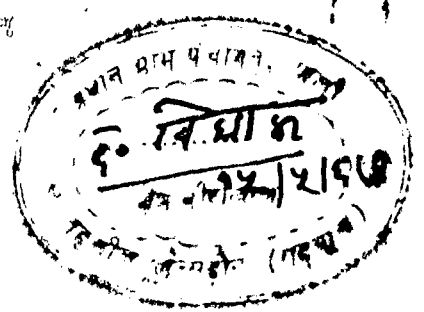
२- (द. ग.) नि. अ.
- म. प्रो. स. द. नगी

३- " द. मा. ज. सि. द."

४- " द. मा. न. सि. द."

५- " द. ह. सि. द. रा. व."

हरलाक्षर ग्राम प्रधान



प्रति: श्रीमती महांदेवी ग्राम बड़ा काली पो. कणजूरवाला गढ़वाल
R. T. I. of ...
कोशल्या गौनियाल

Annexure (2) of

Annexure 5

॥ श्री गणेशाय नमः ॥

मान्यवर,

कु० कौशल्या

सुपुत्री
(सुशी राम जोशी)

ए
व
म्

चि० गोविन्द राम

(सुपुत्र स्व० प० श्री धर्मानन्द जी)
ग्रजबपुर देहरादून निवासी

के शुभ विवाह-संस्कार पर

आप कार्य-क्रमानुसार सादर अभिन्नित हैं।

स्थान :

सलान गांव,
देहरादून

विनीत :

सुशीराम जोशी, किशोरीलाल जोशी
मुकन्दराम जोशी, राजेन्द्रप्रसाद जोशी

★ कार्य—क्रम ★

स्वागत बारात

विदाई

२—२—६८

३—२—६८

६ बजे सांय

४ बजे सांय

Attested
True Copy

S. D. Sharma
A. S.

कौशल्या गौबियाल



R. T. F. of
Int. D. B. K.

Dev Gauriyal

Enclosure (3)

of Annexure 5

ग्राम प्रधान सलाण गांव
पो०ओ०-राजपुर
जिला- देहरादून ।

दिनांक: ४-१२-८७

प्रमाणित किया गया है कि कौशल्या पुत्री पं० छुशीराम
ग्राम सलाण गांव जिला देहरादून निवासी है । तथा पं० छुशीराम
की पुत्री कौशल्या की शादी स्व० गोविन्द राम गोनियाल सन्
पुत्र स्व० धामनिन्द के साथ शादी हिन्दु रीति रिवाज के अनुसार
दिनांक २-२-८८ को हुई है ।

अतः प्रमाणित प्रमाण पत्र श्रीमती कौशल्या गोनियाल
को दिया जाता है ताकि उनके वक्त पर काम आए ।

ग्राम प्रधान

प्रमाणित प्रमाण पत्र
कौशल्या गोनियाल
पुत्री पं० छुशीराम
ग्राम सलाण गांव जिला देहरादून

कौशल्या गोनियाल

Attested true copy
S. Dhasan
Aho



R.T.I. of Int.
Dibba Den
Gauriyal.

Enclosure(4)

of Annexure 5

पहचान कार्ड नम्बर एन एन/NNI...

Card No.

परिवार का ब्योरा
DETAILS OF FAMILY OF

श्री/श्री. जी आर गुज्जियाल

नाम Name	उम्र Age	सम्बन्ध Relationship
श्रीमती के. गुज्जियाल	40 वर्ष	पत्नी
महेश्वर गुज्जियाल	14 वर्ष	पुत्र
मन्मथ गुज्जियाल	12 वर्ष	पुत्र
विष्णु गुज्जियाल	10 वर्ष	पुत्र
विजय गुज्जियाल	8 वर्ष	पुत्र
श्रीमती देवी	85 वर्ष	आजीविकाधिका
श्रीमती देवी	85 वर्ष	आजीविकाधिका

1. नाम तथा पदनाम
Name in full and Designation
साहायक आयु/Age 51 वर्ष

2. विदाय की तिथि
Date of Retirement
21-5-1992

3. विभाग
Department
रिस्क निदेशालय

4. घर का पता
Residential address
को-36/3 माण्डावाडी, लखनऊ

5. कार्य का स्थान
Place of work
आ.आ.मा.सं., लखनऊ

6. स्वास्थ्य सेवा केन्द्र का पता
Health Unit for treatment
आ.आ.मा.सं. चाली

7. रेलवे अधिकारी के हस्ताक्षर/पत्र का निशान
Signature/Impression of the railway employee
[Signature]

8. जारी करने वाले अधिकारी का हस्ताक्षर तथा कार्यालय का मुहर
Signature & office seal of the issuing Authority
[Signature] R. D. S. O.

9. जारी करने की तारीख
Date of issue
19-4-1985

N.R.—1,315/2—July, 1982—45,595

पहचान कार्ड नम्बर एन एन/NNI...

Card No.

परिवार का ब्योरा
DETAILS OF FAMILY OF

श्री/श्री. जी आर गुज्जियाल

नाम Name	उम्र Age	सम्बन्ध Relationship
श्रीमती के. गुज्जियाल	40 वर्ष	पत्नी
महेश्वर गुज्जियाल	14 वर्ष	पुत्र
मन्मथ गुज्जियाल	12 वर्ष	पुत्र
विष्णु गुज्जियाल	10 वर्ष	पुत्र
विजय गुज्जियाल	8 वर्ष	पुत्र
श्रीमती देवी	85 वर्ष	आजीविकाधिका
श्रीमती देवी	85 वर्ष	आजीविकाधिका

8.

9.

10.

11.

12.

"परिवार" पत्नी या पति, बच्चे या पति के बच्चे और उनके बच्चे को शामिल करता है।
"Family" includes wife or husband, children or children and dependents as are covered under pass rules.

TRUE COPY
ATTESTED
[Signature]
Babu Nath Datta
Advocate & Public Notary
Udaigang, [Signature] KNOW.

कौशल्या गौनियाल

Attested True Copy
S. Dhasman
[Signature]

R.T.I. of Smt.
Dikha Devi
Gawniyal.

Enclosure (5)
of Annexure 5

रेल मंत्रालय (रेलवे बोर्ड)/MINISTRY OF RAILWAYS (Railway Board)

Q 900
No. 25690

11. The following information is for your information only. It is not to be used for any other purpose.

FROM [redacted] **TO** [redacted]

प्राप्त: १७/११/२०१७
 श्री/श्रीमती: Dr. Jaybhairu Chaudhari, Pimpri Chinchwad, Pune

modifies the way DNS is used 8/13/13 JH

~~railway board railway board railway board railway board railway board~~

FROM 1-1-1954 TO 31-12-1954

6/01/2014 10:00 AM

[illegible]

~~very bad~~

[illegible][illegible][illegible]

UP

Signs luggage. F 148 6031 for DIR Issuing Directorate

FIFTY PAISE

Advocate & Public Notary

Calgary, Alberta T2C 1A1

काशी हिन्दू विश्वविद्यालय

R.F.H.

Derby

Attleson and Gammison

[Handwritten signature]

2014年12月15日

~~226~~

p40

Enclosure (6)

of Annexure # 5

IN THE COURT OF THE SESSIONS JUDGE: PAURI GARHWAL .

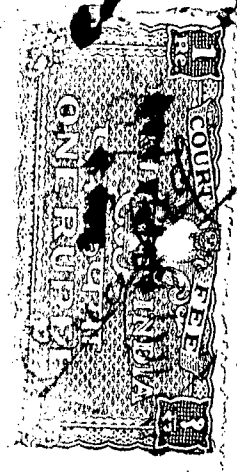
Present, Sri I. P. Mital.

Criminal Revision No. 2 of 1979 .

Govind Ram versus Smt. Mahadevi .

JUDGMENT

The copy of judgment is inclosed here with .



क्र.सं.	१५३३
दिनांक	५.४.७९
विवरण	आदि उपाधी
न्यायाधीश	१६.४.७९
न्यायाधीश	१६.४.७९

1-8-75
R. Jash

११
कोशल्या गौनियाल

Attested true copy
S. D. Sharma
R. I. I. Dist,
Dikha Deri
Garhwal.

26
— 26 —
A41

IN THE COURT OF CIVIL JUDGE PARUL GARHWAL.

Present:- Sri S.P. Srivastava.

Suit No. 40/81.

Govind Ram.....Petitioner.

Versus .

Smt. Maha Devi.....Respondant.

COPY OF JUDGMENT.

This is a petition for divorce U/s 23 of Hindu Marriage Act. It is admitted between the parties that they are Hindus and they were married together according to Hindu customs in the year 1953. ~~After marriage~~ After marriage the respondent gave birth to a male child but subsequently he died.

2. It is alleged by the petitioner that about 14 years the respondent lived with him as his wife but could not give birth to any other child. But subsequently the relation became strained and ultimately the respondent in collusion with her parents, left the petitioner's house on 12.6.1967 and started living with her parents. The petitioner made several attempts to bring the respondent back to his house but did not succeed. The conduct of the respondent is such that the petitioner is suffering mental pain and agony. There has been no relation as husband and wife between the petitioner and the respondent since June 1967. Thus the respondent has deserted the petitioner without any reason. Therefore this petition was filed for divorce on the ground of desertion and cruelty.

3. The respondent has contested the suit and has denied the allegations of the petitioner. She has stated that the death of her first child, she could not give birth to any other child. Thereafter the petitioner remained with another woman and has started living with her. The petitioner has four children from his second wife. It is the petitioner who has deserted the respondent and has been treating her cruelly. The petitioner did not maintain the respondent. Therefore, the respondent moved

कौशल्या गोमियाल

Attested True

Copy- S. D. Sharma

R.T. Iyer Dist. Judge
Dera Gaurijol

application u/s 125 Cr.P.C. and she was granted maintenance but the petitioner has been lingering that proceedings and is not paying anything to the respondent.

4. On the pleadings of the parties following issues were framed.

1. Whether respondent had treated the petitioner cruelly and had desert ed him as alleged in the petition.
2. Whether the petitioner is entitled to divorce as prayed.

FINDING.

Issue No. 1 and 2:-

In this case the date of final hearing parties moved a compromise paper no. 16 A in which it is agreed that the petitioner should be granted the decree of divorce and the petitioners shall continue to pay maintenance allowance to the respondent as detailed in compromise paper no. 16A. That compromise was duly verified in the court. Therefore there is no need to decide the issue no. 1 on merits and the decree of divorce had to be granted as prayed in the compromise paper no 16 A.

ORDER.

The petition of the petitioner is allowed and the marriage between the petitioner and the respondent is hereby dissolved in terms of paper no 16 A which will form part of the decree of divorce.

Dated: 26.3.1982

Camp: Roldwara.

Sd. S.P. Srivastava,
Civil Judge, Pauri Garhwal.
Dated: 26.3.82

Judgement signed, dated and pronounced in open Court today.

Sd. S.P. Srivastava 26.3.
Civil Judge, Pauri Garhwal
Dated : 26.3.1982

11/2/83

600
2200
A. S. Srivastava

29/1/83
21/1/83
Attested true copy
S. D. Sharma

कौशल्या गौमियाल
Dist. Garhwal

In the Central Administrative Tribunal,
— 29 — Lucknow Circuit Bench,
LUCKNOW

Pramod Gauniyal Vs. — Union of India & others
Annexure No. 5 6

Phone : 76960

Sushash Chandra Dhasmana
ADVOCATE

Off. & Resi. :
C-1050, Arawali Marg,
Indira Nagar,
P. O. — Ram Sagar Mishra Nagar,
LUCKNOW-226016
INDIA

REGISTERED WITH A.D.

Our Ref. : 88/N - Govt./R - 1

Your Ref. : —

Date 15th November, 38.

To

- (1) The Director General,
Research Designs & Standard Organisation,
Ministry of Railways,
Central Government of India (Union of India)
Manak Nagar,
Lucknow - 226011
- (2) The Secretary,
Railway Board,
Rail Bhawan,
New Delhi.
- (3) The Secretary,
Union of India (Railway Department)
Ministry of Railways,
Rail Bhawan,
New Delhi.

Dear Sir,

Subject: Notice for appointment of Pramod Gauniyal
on compensate grounds in lieu of the demise
of his father Late Govind Ram Gauniyal, who
died as Government servant in the service
of Railway Department.

Under the instructions from, and on ~~behalf~~
behalf of my clients (1) Pramod Gauniyal, aged about
17 years son of Late Shri Govind Ram Gauniyal, (2) Smt.
Kausliya Gauniyal, aged about 42 years, widow of Late
Shri Govind Ram Gauniyal, and (3) Smt. Dikka Devi Gauniyal,
aged about 85 years, widow of Late Shri Dharma Mand
Gauniyal, all residents of House no. 36/3, R. D. S. O. Colony

Attested True by
Sushash Chandra Dhasmana
काशल्या गौनियल

R.T.I. of Lt.
Dikka Devi
Gauniyal

- 2 -

Manik Nagar, P.S. Alambagi, Lucknow, I have to serve the following notice on your good-selves :-

1. That late Shri Govind Ram Ganiyal was the father of my client no. (1), husband of my client no. 2 and the only son of my client no. 3. Shri Govind Ram Ganiyal died on the 4th November, 1987 while as Government servant in active service with the Research Design and Standard Organisation, Manik Nagar, Lucknow while holding the post of "Assistant" in the E.O. (I)'s Section.
2. That the deceased late Shri Govind Ram Ganiyal died due to heart failure at Allahabad after 35 years of meritorious services.
3. That the aforesaid deceased left behind my clients nos. 1, 2 and 3 along with his children Manoj Ganiyal, Ka. Shobha Ganiyal and Vinod Ganiyal in his family.
4. That my client no. 3 is a very old lady of about 85 years of age having ailing health and remains ill and confined to bed most of the time. The aforesaid deceased was the only surviving son of my client no. 3 who was solely dependent for her survival, looking after and shelter upon the aforesaid deceased. The late husband of my client no. 3, Shri Mahendra Nath Ganiyal had expired more than 40 years back and since then the aforesaid deceased, Govind Ram Ganiyal was looking after my client no. 3 for her very means for food and shelter.
5. That the aforesaid deceased was the sole earning member of his family on whose income the very survival of my clients nos. 1, 2 and 3 and other children namely Manoj Ganiyal, Ka. Shobha Ganiyal and Vinod Ganiyal were completely dependent.
6. That at present there is no earning member in the family of the aforesaid deceased Govind Ram Ganiyal.

Attested true by
 (Signature)
 श्रीमान गोविन्द गानियाल



R.T.I. of Shri
 Dr. Bha. Jai
 Ganiyal

7. That my client no. 2 is an uneducated lady.

8. That my client no. 3 is an illiterate woman.

9. That my client no. 1 is about 17 years of age and at present studying in class XII (Intermediate) at the K.K.V. Inter. College, Lucknow after having passed the High School Examination of the Board of High School and Intermediate Education, U.P. Allahabad in the First Division with Science subjects from the Railway High School, Bank Nagar, Lucknow.

10. That the other children of the aforesaid deceased are too young, namely Ganesh Ganjyal, An. Shobha Ganjyal and Vinod Ganjyal who are respectively 15, 13 and 11 years of age and they all are studying.

11. That it is a fit and genuine case that our client no. 1 be appointed / employed on a suitable post since one person of the family of the aforesaid deceased is entitled for appointment on compensate grounds to support the family left by him.

12. That in the aforesaid family, my client no. 1 is the most suitable person to be appointed / employed in lieu of the demise of the aforesaid deceased An. Ganjyal as all the other members of the family are either too old or uneducated, or too young and are studying.

13. That my client no. 2 had made a written representation dated 14-12-1957 before the addressee no. 1 requesting him to appoint / employ my client no. 1 on any suitable post in the said organization in lieu of the demise of late An. Ganjyal.

14. That my client no. 3 had also made a written representation dated 12-2-1958 before the addressee no. 1 requesting him to employ / appoint our client no. 1, for the very survival of the family members of the aforesaid deceased.

Attested True copy

Sd/Dharmaraj
Atr

कौशल्या गौनियल



R.T.I. of Shri
Dilpa Devi
Ganjyal.

15. That my client no. 1 had also represented before the Hon'ble Minister of Railways, Rail Centralaya, New Delhi through an application dated 2-9-1988, for giving him employment in lieu of the end deuse of his father who had died in active service in the Railways.

16. That my client no. 3 had further made another representation dated 21-3-1988 before the addressees nos. 1, 2 and the Adviser, Legal Cell, Railway Board, Rail Bhawan, New Delhi for giving employment to my client no. 1.

17. That inspite of so many aforesaid representations and requests, no action has been taken to appoint / employ my client no. 1 till yet and all the aforesaid representations / requests are still pending and have not been also replied till yet.

18. That our client no. 3 further also requested the Deputy Minister, Ministry of Railways, New Delhi vide his appeal dated 25-3-1988 to appoint my client no. 1.

19. That though my client no. 1 is still a minor, but vide S.I. Deptt. of Personnel and Training O.M.No.14014 /6/86 - Smt.(2) dated the 30th June 1987, he is entitled for age exemption/relaxation.

20. That the family members of the aforesaid deceased are facing grave financial crisis and are on the verge of starvation.

21. That the cause of action accrued on 4-11-1937 in favour of my clients nos. 1, 2 and 3 and against you addressees when the deceased Late Shri Govind Ram Gamiyal expired in harness while in active service with the department of addressee no.1, leaving behind his aforesaid family members without any support or help of a earning family member, which cause of action is still accruing in favour of my clients against all you addressees as my client no. 1 has not been given any suitable appointment / employment till yet inspite of the

Attested
Truly
कौशल्या गौमियाल
Sadhana

RTI of Lt.
Disha Devi
Gamiyal.

best efforts of my clients nos. 1, 2 and 3.

22. That my clients are entitled for the relief of the employment / appointment of my client no. 1 to a suitable post in the organisation of the addressee no. 1 or any other place considered suitable for his employment with immediate effect.

WHEREFORE, you all the addressees are required to accept this notice that everyone of you addressees jointly and severally is hereby called upon to appoint / employ my client no. 1 on compensate terms on a suitable post in the department of the addressee no. 1 or any other suitable place in lieu of the demise of late Devind Ram Janyal, who had died in active service, within sixty days (2 months) from the service of this notice upon anyone of you addressees, failing which our clients shall have no other recourse except to take suitable action in a competent Court of Law against you the addressees, jointly or severally for the said appointment / employment, at your consequences, risks and costs.

Thanking you,

Yours faithfully,

(S. C. Dharama)
Advocate,

Dated : 15 - 11 - 1955.

Here:

This notice is without prejudice to any other right, title or entitlement of our clients otherwise due against any one of your organisation / department.

काश्यामोर्नियाल

Attested true copy
S. C. Dharama
Adv.



R. I. J. J. J.
Dikhal Deni
Gawyal.

In the Central Administrative Tribunal AUG
Lucknow Circuit Bench, Lucknow.

Reg. No. 1989

Pranod Gaunyal & others --- Applicants
Versus

Union of India & others --- Respondents

Annexure NO. 7

Ver 26
10/2/89
WAT

आपात्त लिखित जवाब (12/2/89)
प्रकीर्ण लिखित संख्या 122/88

Wages. 500

श्रीमती दिव्या देवी गुजियाल --- उत्तरिका

अनाथ

जापदाद गोविन्द राम गुजियाल --- निरीक्षक

जबल निदेश की कार्य स्थापना मिल गई है।

कौशल्या गुजियाल

Attested True Copy
S. Dhasin
A. H.

RTI of
Shri. Dikha
Din Gaunyal.

न्यायालय सिविल जज मलिहानाद, लखनऊ ।

उपस्थित:- कुशल शंकर ओशा-जज,

प्रकीर्ण पाद संख्या:- 122/88,

श्रीमती दिक्का देवी गुनियाल. आवेदिका

वनाय

जायदाद गोविन्दराम गुनियाल. विरोधी पक्षकार

चक्र (M) निर्णय
=====

आवेदिका श्रीमती दिक्का देवी गुनियाल ने प्रस्तुत आवेदन भारतीय उत्तराधिकार अधिनियम की धारा 372 के अधीन दाखिल किया है ।

आवेदिका का संक्षेप में मामला इसप्रकार है कि वह मृतक विरोधी पक्षकार गोविन्द राम गुनियाल की पत्नी है । गोविन्द राम गुनियाल का निधन दिनांक 4/11/1987 को देहरादून में हो गया था। मृतक ने आवेदिका के अतिरिक्त 5 अन्य वारिसान एवं उत्तराधिकारी छोड़े हैं जिनका विवरण आवेदन के प्रस्तर-7 में दिया गया है। मृतक ने अपनी मृत्यु से पूर्व किसी वसीयत का निष्पादन नहीं किया था। आवेदिका का यह कहना है कि मृतक श्री गोविन्द राम गुनियाल का प्रथम विवाह श्रीमती महादेवी के साथ वर्ष 1953 में हुआ था किन्तु मृतक ने श्रीमती महादेवी से 15-5-1967 को तलाक दे दिया था । मृतक गोविन्द राम गुनियाल का विवाह इसके पश्चात श्रीमती कौशल्या के साथ हुआ जो उसकी मृत्यु तक पत्नी रही है। अतः आवेदिका ने प्रार्थना किया है कि आवेदन में लिखित धनराशि के सम्बन्ध में उत्तराधिकार प्रमाण-पत्र उसके पक्ष में जारी कर दिया जाये ।

न्यायालय से नोटिस जारी की गई तथा नोटिस का प्रकाशन दैनिक समाचार-पत्र में कराया गया किन्तु आवेदन के विरुद्ध कोई आपत्ति दाखिल नहीं हुई।

आवेदिका ने अपने कथान के समर्थन में असल मृत्यु प्रमाण-पत्र 13-ग, वारिसान श्रीमती कौशल्या देवी गुनियाल का शपथ-पत्र 10-ग और श्री प्रमोद गुनियाल का शपथ-पत्र 11-ग दाखिल किए गए हैं। इन शपथ-पत्रों द्वारा आवेदिका श्रीमती दिक्का देवी जोकि संयुक्त हिन्दू परिवार की "कर्ता" है को उत्तराधिकार प्रमाण-पत्र जारी किए जाने के सम्बन्ध में अनापत्ति जादिर की गई है। इसके अतिरिक्त आवेदिका श्रीमती दिक्का देवी ने अपना स्वयं का शपथ-पत्र 14-ग तथा इसके साथ तीन कागजात की फोटोस्टैट प्रतिलिपि कुशा: ग-14/7 लगायत ग-14/10 दाखिल किया है जिसके द्वारा आवेदिका ने आवेदन में कथित किए गए तथ्यों की समुचित सिद्धि किया है।

पत्रावली पर उपस्था साक्ष के अलोकन से यह आवेदिका का अर्थपूर्ण भावना सिद्ध है और उसका आवेदन स्वीकार किए जाने योग्य पाया जाता है ।

Attested True by
S. Dhasna
कौशल्या गुनियाल

R.T. Effort.
D. B. Deji
Garniyal

आ दे रा

आवेदिका का आवेदन हा/3 स्वीकार किया जाता है और आवेदन में वर्णित धनराशि के विषय में उत्तराधिकार प्रमाण-पत्र आवेदिका के पक्ष में आवश्यक वाद-शुल्क अदा किए जाने के बाद जारी कर दिया जाये किन्तु आवेदिका ने इस बात की अण्डरटेकिंग ले ली जावे कि नागालिग वारिसान के हक की धनराशि सिर्फ उनके हित में व्यय करेगी ।

(Signature)
14/2/89

कुशल शंकर ओझा
सिविल जज मलिहाबाद
लखनऊ।

दिनांक: 4/2/1989

निर्णय आज खुले न्यायालय में हस्ताक्षरित एवं दिनांकित करके उद्घोषित किया गया ।

(Signature)
14/2/89

कुशल शंकर ओझा
सिविल जज मलिहाबाद
लखनऊ ।

दिनांक: 4/2/1989

Comphy - 11
Gauriyal *Hence*

(Signature)
21/2/89

कौशल्या गौनियल

R.T.I. of
Smt. Disha Devi
Gauriyal
Attested True Copy

(Signature)
A.S.

ASV

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
Lucknow Circuit Bench, Lucknow.

Pramod Gauniyal & others Applicants.

Versus

Union of India & others. Respondents.

Annexure no. 8

Chart showing reimbursement of Tuition Fees
to the children of late Sri Govind Ram Gauniyal
Assistant R.D.S.O. (R) Section, Lucknow.
months May, 1983 to September, 1987.

St. Mary's High School.

<u>sl.No.</u>	<u>Name</u>	<u>Class</u>	<u>Date</u>	<u>Total amount.</u>
1.	Pramod Gauniyal	VII	5/83 to 4/84	Rs. 54/- paid
2.	Manoj Gauniyal	VII	5/83 to 4/84	Rs. 54/- paid
3.	Pramod Gauniyal	VIII	5/84 to 4/85	Rs. 54/- paid
4.	Manoj Gauniyal	VIII	5/84 to 4/85	Rs. 54/- paid
5.	Pramod Gauniyal	IX	7/86 to 6/87	Rs. 126/- paid
6.	Manoj Gauniyal	IX	4/86 to 3/87	Rs. 180/- paid
7.	Sobha Gauniyal	VII	4/86 to 3/87	Rs. 60/- paid
8.	Manoj Gauniyal	IX	5/87 to 10/87	Rs. 120/- paid
9.	Sobha Gauniyal	VIII	4/87 to 9/87	Rs. 30/- paid

Attested true copy
Sd/Dham
ASV

कौशल्या गौनियल

R.T.O. of
Dist. Diksha
Dist. Gauniyal

38
In the Central Administrative Tribunal,
Lucknow Circuit Bench, Lucknow.

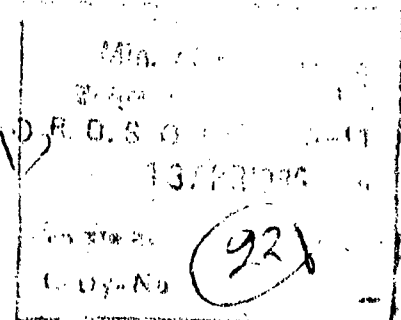
Pramod Gauniyal --- Applicant A53
& others

Versus

Union of India & others --- Respondents

Annexure No. 9

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)



No. 88/ER-I/RDSO (Repn.)-1. New Delhi, dated 11-4-1989.

Shri Pramod Gauniyal,
House No. B-36/3,
R.D.S.O. Colony,
Manak Nagar,
LUCKNOW-226 011.

SUB: Appointment of Shri Pramod Gauniyal,
son of late Shri Govind Ram Gauniyal,
Ex.Assistant, R.D.S.O., Lucknow, on
compassionate grounds.
.....

Please refer to your representation dated 13.3.1989
addressed to the Minister of State for Railways received
through Shri Kamal Nath, M.P., on subject referred to above.

2. The case of your appointment in R.D.S.O. on
compassionate grounds was considered in this office and,
it is regretted to say, the same has not been agreed to.

C. L. Mina
(C.L. MINA)
for Secretary, Railway Board.

अ
केशम गाँनियाल

RTI of
Shri. Disha Devi
Gauniyal
Attested True Copy
S. Dhaswari
Shr.

A 54

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

REPLY ON BEHALF OF RESPONDENTS NOS. 1 & 3

IN

Registration No.123 of 1989(L)

Pramod Gauniyal & Others Applicants

Vs.

Union of India & Others Respondents

I, S.Bhatia, aged about 54 years, son of late Shri U.C.Bhatia presently posted as Deputy Director/ Estt-I in the office of Research, Designs and Standards Organisation (Ministry of Railways), Lucknow solemnly state as under:-

1. That I am presently posted as Dy.Director/Estt.I in the office of Research, Designs and Standards Organisation (hereinafter called as RDSO) Lucknow and have been duly authorised on behalf of respondents for filing the instant reply. I have perused the relevant available records relating to the instant case and have also gone through the Petition under Section 19 of the Central Administrative ^{Tribunal's} Act No.13 of 1985 filed by the applicants alongwith Annexures under reply and have understood the contents thereof and thus I am acquainted with the facts and circumstances of the case deposed below:

2. That before giving para-wise replies to the claim application the answering Respondents crave the leave of this Hon'ble Tribunal to state certain relevant facts which ^{are} necessary and essential in appreciating the

ASS

controversy involved in the instant petition. They are as under:

(a) That late Shri Govind Ram Gauniyal was appointed as Lower Division Clerk in RDSO w.e.f. 26.12.56, and subsequently got promotion to the post of Asstt. in this organisation w.e.f. 16-11-1977. While working as Assistant ⁱⁿ the scale Rs. 425-800 (RS) he expired on 4.11.1987 i.e. before his actual retirement. The claimant No.1, Shri Pramod Gauniyal is claiming that Shri Govind Ram Gauniyal ^{is} his father and Smt. Kaushalya Devi is

his mother. In this connection it may be mentioned that

as per statement at Annexure R-6 of
Shri Govind Ram Gauniyal ^{he} had married one Smt. Mahadevi

~~according to Hindu Customs~~ in the year 1956. After

marrying, a birth was given to a ~~male~~ child, but subsequently the child died. Thereafter they had no issue

and it is alleged in the mean time late Shri Govind Ram Gauniyal remained with another woman and started living

with her, and it is further alleged that ~~she~~ ^{he} ~~had 4 children also.~~ It was also alleged that Sh. Govind

Ram Gauniyal did not maintain Smt. Mahadevi and she had moved an application in the court of Hon'ble Judge,

Pauri Garhwal. After considering the merits of the

case the Hon'ble Civil Judge, Pauri Garhwal in his

judgement dated 26.3.1982 (Copy at Encl. 6 of Annex. 5) ^{Application}

passed orders that the marriage of Shri Govind Ram

Gauniyal with Smt. Mahadevi is dissolved and a decree of

divorce was passed. A complaint was received in Feb. '75

from Smt. Mahadevi (copy enclosed at Annexure R-I) that

Smt. Mahadevi married to late Shri Govind Ram Gauniyal,

but Shri Govind Ram Gauniyal had deserted her and had

married another lady about 7 years back, but

....3

Shri Govind Ram Gauniyal did not report the matter to the Government as according to Railway Service Conduct Rules 1966, "No Railway Servant shall enter into or contract, a marriage with a person having a spouse living, provided that the Government may permit the Railway Servant to enter into or contract in such marriage". Such instructions were issued for the guidance of all the staff vide Staff Notice No.A/G/II dated 11.2.1971 (Copy at Annexure R-2). A memorandum was issued to ^{late} Shri Govind Ram Gauniyal on 25.5.1976 (copy annexed at R-3) to explain his conduct. He advised that since the matter is subjudice and is pending decision of the case by the said Hon'ble Court, the departmental proceedings against him should be held in abeyance. Accordingly the Ministry of Railways, Railway Board was advised of the position. In January 1979, it was decided to issue a major penalty charge-sheet under the Railway Servant (D&A Amendment Rules 1969) to Shri Govind Ram Gauniyal (Copy annexed at R-4), and in this Charge-sheet 3 articles of charges were framed against him. His reply was ~~also~~ considered. In the mean time in connection with maintenance Allowance to Smt. Mahadevi an order was passed by the Hon'ble Session Judge, Pauri Garhwal on 30.7.1979 (Copy annexed R-5). In this connection, it is pertinent to state that late Shri Govind Ram Gauniyal while he was working as an Assistant in RDSO during the course of proceedings of enquiry against him held on 27.4.1979 declared that Smt. Mahadevi is his legally wedded wife and he had no issue. He further declared that his family consisting of Self 45, Widowed Mother 78 and Widowed Sister aged 52 years (copy annexed at R-6). ^{para 9 & 22)} It is further mentioned

....4

that Hon'ble Civil Judge, Malikabad issued Succession Certificate for payment of settlement dues in favour of Smt. Dikka Devi, widowed mother of Shri Govind Ram Gauniyal and all settlement dues are to be paid to her (copy enclosed at Annexure 7 of the Application)

~~text~~

(b) It is further stated that if late Shri Govind Ram Gauniyal did not contract the second marriage then he falsely drew the Railway Passes, benefits of Tution re-imbusement fees and Medical Facilities (kindly see Encl. 4 & 5 of the Annexure 5 of the Application and also Annexure 8 of the Application) in favour of the children.

(c) In view of the position brought about, the claim of Shri Pramed Gauniyal that he is a son of Sh. Govind Ram Gauniyal (who has denied to have not performed second marriage) for appointment on compassionate grounds has no legal sanctity or claim and the application is liable to be dismissed with costs.

(d) It is further stated that as per the rules the dependent of the deceased employee cannot claim appointment on compassionate grounds as a matter of right and it is discretionary for the competent authority to give or not to give such appointment keeping on the circumstances of the individual cases. The Railway Board's orders letter No. E(NG)III-78/RC1/1 dated 7.4.83 is enclosed as Annexure R-7.

Dy. Director Establishment,
R. D. S. O., Ministry of Railway,
Alambach, LUCKNOW-4

उप निदेशक स्थापना - 1
पनुसंधान अधिकार्य और मानक संगठन,
रेल संग्राह्य, लखनऊ - 226011


3. That the contents of paras 1 to 3 of the Application do not call for comments.
4. That the contents of para 4(1) of the application call for no comments.
5. That in reply to the contents of para 4(2) of the application it is submitted that late Sh. Govind Ram Gauniyal had put in 30 years 10 months service at the time of his death as his date of appointment in Railway service was 26.12.1956 and his date of death being 4.11.1987.
6. That the contents of para 4(3) of the application are emphatically denied. In reply thereof it is submitted that after the death of Shri Govind Ram Gauniyal on 4.11.1987, Smt. Dikka Devi, his widowed mother produced the necessary succession certificate for the payment of outstanding dues of her late son as Smt. Kaushalya Devi was not the legally wedded wife of late Shri Govind Ram Gauniyal as per the statement dated 27.4.79 of Sh. Gauniyal (Copy at Annexure R-6) before the Enquiry Officer, *as such* Smt. Kaushalya Devi cannot be accepted as legally wedded wife. Similarly the sons and daughters viz. S/Sh. Pramod, Manoj and Vinod and Km. Sobha Gauniyal from Smt. Kaushalya Devi cannot be accepted as legal sons and daughters of late Shri Govind Ram Gauniyal.
7. That in reply to the contents of para 4(4) of the application the remarks against para 6 are reiterated and it is stated that the applicants are put to strict proof in this regard.
8. That the contents of para 4(5) of the application do not call for comments. Smt. Dikka Devi is the mother ^{late} of Sh. Govind Ram Gauniyal as per succession Certificate issued by the Civil Judge, Malihabad.

9. That the contents of paras 4(6) and 4(7) ^{as no such records are available with us} of the application do not call for comments. It is, however, stated that the Applicant No.1 and others who are alleged to be children of late Sh. Govind Ram Gauniyal are not legally acceptable as children of late Shri Govind Ram Gauniyal as per comments given in para 6 above.

10. That in reply to the contents of para 4(8) of the application, it is stated that the employment of wife/son/daughter of the deceased railway employee on compassionate grounds is not obligatory and binding on the Government to provide employment and such appointments can be made to dependents of Railway servants who lose their lives in the course of duty and die in harness otherwise while in service or are medically incapacitated subject to the availability of vacancies and fulfilment of other relevant conditions. In this connection Railway Board's letter No.E(NG)III 78/RCI/1 dated 7.4.1983 is enclosed as Annexure R-7. As per the statement given by late Shri Govind Ram Gauniyal (copy at Annexure R-⁶~~10~~) ^{who could be considered} he has no such dependents for employment on compassionate grounds. (Kindly see para 22 of Annexure R-6)

11. That in reply to the contents of para 4(9) of the application, it is submitted that since the applicant No.1 is not legally a son of the deceased Sh. Govind Ram Gauniyal, the question of his claim for appointment on compassionate grounds does not arise. Also the comments given in para ^{10 above} ~~4(9)~~ are reiterated.

12. That in reply to the contents of para 4(10) of the application, it is stated that no such representation dated 14.12.1987 appears to have been received in the dealing section from Applicant No.1 as alleged.


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13. That in reply to the contents of para 4(11) and 4(12) of the application it is stated that a representation dated 12.2.1988 was received from Smt. Dikka Devi widowed mother of late Sh. Govind Ram Gauniyal for the payment of the outstanding dues of her deceased son and for the employment of Sh. Pramod Gauniyal said to be her grandson. The appointment of Shri Pramod Gauniyal on compassionate grounds could not be considered as being not admissible. The outstanding dues are to be paid to Smt. Dikka Devi on production of succession certificate issued by the competent court. The Railway Board had also advised vide their letter dated 11.4.1989, (Copy at Annex.9 of the Petition addressed to the Petitioner No.1) that his case for appointment in RDSO on compassionate grounds was considered by them and the same was not agreed to.

14. That the contents of para 4(13) of the application do not call for comments. It may kindly be observed *That* as admitted by the Applicant the Competent Court had issued the Succession Certificate only in favour of Smt. Dikka Devi, mother of late Shri Govind Ram Gauniyal and not in the name of Smt. Kaushalya Devi who is claimed *to be* as mother of the Petitioner No.1.

15. That in reply to the contents of para 4(14) of the application, it is submitted that the Applicant No.1, Shri Pramod Gauniyal is not at all eligible for appointment on compassionate grounds in view of the position brought out in para ^{6 and} 3 above.

16. That in reply to the contents of para 4(15) of the application, it is submitted that as admitted by late Shri Govind Ram Gauniyal before the ~~Industry~~ Enquiry Officer on 27.4.79 (copy Annexed at R-6), that he married only Smt. Mahadevi in the year 1958 and he had no issue and subsequently the above marriage was dissolved

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vide orders of Civil Judge, Pauri Garhwal on 26.3.1982, on the basis of a compromise (copy annexed as Encl.6 of Annexure-5 of the Application). Only after dissolution of this marriage, late Shri Govind Ram Gauniyal applied to the RDSO administration during April 1985 for issue of a Medical Identity Card for his alleged children by furnishing a false declaration. A copy of the Medical Card issued to him is annexed ^{as Enclosure 4 to Annexure 5 of the Application} ~~as Annexure 4~~ (copy at Annexure 5 of the application). Similarly he availed other facilities such as reimbursement of tuition fees for his children, railway passes, P.T.O.s etc. in favour of them and made fraudulent use of the same. (Copy of the Report of the Pass Section is annexed at R-8). As would be observed from the enclosure (4) of the Annex.5, of the application, the age of Shri Pramod Gauniyal, the Petitioner No.1 on 19.4.85 has been shown as 14 years, while deposing before the Inquiry Officer on 27.4.1979, late Shri Govind Ram Gauniyal deposed that he had no issue (copy at Annexure R-6). This fact is also corroborated with para 3 of the Judgement delivered by the Hon'ble Civil Judge, Pauri Garhwal on 26.3.1982 (copy at Enclosure 6 of Annexure 5 of the application). It would be further observed from the Succession certificate issued by the Hon'ble Civil Judge, Malihabad on 4.2.1989 (copy at Annexure ~~VII~~ ⁷ of the Application) in favour of Smt. Dikka Devi, the mother of late Shri Govind Ram Gauniyal ^{in reply to} ~~that~~ a Memorandum No. A/EP-944 dated 29.12.1988 (copy annexed Annexure R-2) ~~was~~ issued to Smt. Dikka Devi, widowed Smt. Mahadevi, wife and Smt. Kaushalya Gauniyal legally wedded wife of Govind Ram Gauniyal to bring a Succession Certificate to establish their claim over the late Shri Govind Ram Gauniyal's settlement dues. Except

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vide orders of Civil Judge, Pauri Garhwal on 26.3.1982, on the basis of a compromise (copy annexed as Encl.6 of Annexure-5 of the Application). Only after dissolution of this marriage, late Shri Govind Ram Gauniyal applied to the RDSO administration during April 1985 for issue of a Medical Identity Card for his alleged children by furnishing a false declaration. A copy of the Medical Card issued to him is annexed ^{as Enclosure 4 to Annexure 5 of the Application} (copy at R-8). Similarly he availed other facilities such as reimbursement of tuition fees for his children, railway passes, P.T.O.s etc. in favour of them and made fraudulent use of the same. (Copy of the Report of the Pass Section is annexed at R-8). As would be observed from the enclosure (4) of the Annex.5, of the application, the age of Shri Pramod Gauniyal, the Petitioner No.1 on 19.4.85 has been shown as 14 years, while deposing before the Inquiry Officer on 27.4.1979, late Shri Govind Ram Gauniyal deposed that he had no issue (copy at Annexure R-6). This fact is also corroborated with para 3 of the Judgement delivered by the Hon'ble Civil Judge, Pauri Garhwal on 26.3.1982 (copy at Enclosure 6 of Annexure 5 of the application). It would be further observed from the Succession certificate issued by the Hon'ble Civil Judge, Malihabad on 4.2.1989 (copy at Annexure ~~7~~ ^{7h} of the Application) in favour of Smt. Dikka Devi, the mother of late Shri Govind Ram Gauniyal ^{in reply to} that a Memorandum No. A/EP-944 dated 29.12.1988 (copy annexed as Annexure R-2) was issued to Smt. Dikka Devi, widowed mother, Smt. Mahadevi, wife and Smt. Kaushalya Gauniyal claiming to be legally wedded wife of Govind Ram Gauniyal through a Regd. cover to bring a Succession Certificate from a competent Court to establish their claim over late Sh. Govind Ram Gauniyal's settlement dues. Except

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Smt. Dikka Devi, no body else could produce the Succession Certificate and as such it is evident that Smt. Kaushalya Devi (whose son the Petitioner^{ex} No.1 is claiming) was not legally wedded wife of the late Shri Govind Ram Gauniyal and as such Shri Pramod Gauniyal, the Applicant No.1 cannot claim the employment on compassionate grounds being the son of late Shri Govind Ram Gauniyal.

18. That in reply to the contents of para 4(16) of the application it is stated that the claim of the applicant No.1 has been correctly rejected being not admissible under Rules and any allegations to the contrary are denied.

19. That in reply to the contents of para 5 of the application, it is submitted that there had been no illegality or violation of any rules or any principles of natural justice made by the answering respondents, as the claim of the Petitioner No.1 is not tenable on the grounds that he is not legally son of late Shri Govind Ram Gauniyal and also ~~for~~^{not} the dependent~~s~~ of the deceased employee claiming the employment on compassionate grounds as a matter of right. As the grounds put forth by the Petitioner are not only devoid of any merits but also not sustainable in law and the applicants are not legally entitled for any reliefs claimed and the instant petition is liable to be rejected with the cost.

20. That the contents of paras 6 and 7 of the application do not call for any comments since these are matters of record.

21. That the contents of para 8 of the petition are denied. In reply, the contents of para 19 of the instant reply are reiterated. However, it is further

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By. 
C. D. S. L.

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stated that there had been no illegality or violation of any Rules or Principles of Natural Justice committed by the answering Respondents in the instant case and as such the petition is not legally entitled for any reliefs claimed and the instant petition is liable to be rejected.

22. That the contents of para 9 of the petition are denied and in reply the contents of para 21 of the instant reply are reiterated. However, it is further stated that neither any valid and cogent grounds have been put forth for grant of any interim ~~xxxx~~ relief nor any balance of convenience lies in ^{his} _h favour and as such the petition ~~is~~ is not legally entitled for any interim relief claimed and the same is liable to be rejected.

23. That the contents of para 10, 11 and 12 do not call for comments as these are matters of record.

VERIFICATION


~~Dy. Director Establishment~~
B. D. S. O., Ministry of
Alambagh, LUCKNOW-3

I, S.Bhatia, Dy. Director/Estt-I/RDSO, Lucknow do hereby verify that the contents of para 1 of this reply are true to my personal knowledge and belief and the contents of paras 2 to 23 of the instant reply are based on knowledge derived from the perusal of the available official records pertaining to the instant case kept in the official custody of the answering respondents. No part of this reply is false and nothing material has been concealed.

Verified this day of 16th ^{February} ~~January~~ 1990 at Lucknow.

Lucknow.

Dated 16th ^{February} ~~January~~, 1990.


Dy. Director Establishment,
B. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-3

सेवा में,

श्रीमान डाइरेक्टर महोदय,

गवर्नमेंट आफ इंडिया, मिनिस्ट्री आफ रेलवेज,

आर० डी० एस० ओ०,

लखनऊ (उत्तर प्रदेश)।

Annexure R-1

184

Two: 1

22 FEB 1975
By: <i>[Signature]</i>
30/A-1

श्रीमान जी,

सविनय निवेदन है कि मैं अरु डिविजन कलकत्ता गोविन्दराम गौनियाल मनेनियल पुत्र श्री धर्मानंद, जो आपके अधीनस्थ उपरोक्त कार्यालय में सेवा कर रहे हैं, की विवाहिका धर्मपत्नि हूँ। हमारी शादी सामाजिक व धार्मिक रीति रिवाज अनुसार हमारे गांव, बडोल गांव, पट्टी कोलागाड़, जिला गढ़वाल में लगभग 22 साल पहलू थी तब से मैं अपने पति उपरोक्त के साथ नौकरी में लगभग 15 वर्षों तक उनके साथ रही। इस बीच कभी कभी मैं उनके गांव ग्राम पाली, पट्टी साटलो बल्ला, जिला गढ़वाल में भी जाती जाती रही।

आज से लगभग 9 साल पहलू मेरे पति मेरे को अपने घर पाली में लगे गये और मैं अपनी सास के साथ रहती रही। उसके कुछ समय बाद, मेरी सास मेरे को मेरी ननद के साथ उसी घर में छोड़कर खुद भी लखनऊ मेरे पति के पास चली गयी। बीच बीच में मेरे पति उपरोक्त घर पर मेरे पास आते जाते रहे। इसी बीच उन्होंने मुझसे छिपकर वहीं लखनऊ में दूसरी शादी कर ली। गत वर्ष जब मैं अपनी मां और दूसरी पत्नि तथा तीन बच्चों सहित घर आये तो सबने मेरे साथ बहुत बुरा व्यवहार किया और कहा कि अब मैं आपको अपने घर में नहीं रख सकता और मारपीट का मुझे घर से निकाल दिया। मैं तभी से अपनी माता के पास रहकर गुजारा कर रही हूँ।

राजकीय कर्मचारी होने के नाते पहली पत्नि के रहते ही दूसरी शादी करना कानून विरुद्ध है जिसके लिये गोविन्दराम गौनियाल को कानूनन दण्ड दिया जाना जरूरी है। मुझे यह भी ज्ञात हुआ है कि वह अभी भी मेरे नाम (महादेवी) से रेलवे से पास लेकर मैं मेरे नाम का उपयोग का अनुचित लाभ उठाते रहते हैं। मैं अपने पिता की एक मात्र सन्तान हूँ। मेरे पिता जी स्वतंत्रता संग्राम सेनानी थे और उनका स्वर्गवास हो गया है। इस प्रसंग में पति ही स्त्री का एक मात्र सहारा होता है किन्तु मैं उससे भी वंचित हो गयी हूँ और अपनी वृद्धा विधवा मां पर बोझ बनी हुई हूँ।

अतः आपसे प्रार्थना है कि मुझे अबला की प्रार्थना पर ध्यान देकर श्री गोविन्दराम गौनियाल के विरुद्ध विभागीय कानूनी कार्यवाही की जाये।

आपकी अति कृपा होगी।

दिनांक 22-3-75।

भवदीया,

महादेवी

(महादेवी)

By: Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

पुत्री स्वर्गीय श्री जीवानन्द बडोला शास्त्री,
ग्राम बडोलागांव, पट्टी कोलागाड़, पो० ब० तिलवांगी.

Er(7)
22/3/75

Am - R-2
4/1
A65

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS & STANDARDS ORGANISATION,
Alambagh, Lucknow
Dated 11.2.1971

No. A/G/II.

STAFF NOTICE

Attention of the officers and staff is drawn to the provision of Rule 21 of the Railways Services (Conduct) Rules, 1966, which is reproduced below:-

"Rule 21 Restriction regarding marriage.

- (1) No Railway servant shall enter into, or contract, a marriage with a person having a spouse living &
- (2) no Railway servant, having a spouse living, shall enter into, or contract, a marriage with any person,
- (3) a Railway servant who has married or marries a person other than of Indian Nationality shall forthwith intimate the fact to the Government.

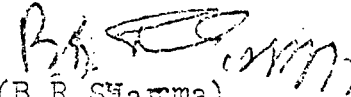
Provided that the Government may permit a Railway Servant to enter into, or contract, any such marriage as is referred to in Clause (1) or Clause (2) if it is satisfied that:-

- (a) Such marriage is permissible under the personal law applicable to such Railway servant and the other party to the marriage,
- (b) there are other grounds for so doing."

2. It is imperative for all the officers and staff to observe strictly the provisions contained in the above rules.

3. Section Officers/Supervisors are being supplied with additional copies of the staff notice. They are requested to circulate the staff notice to all the officers and staff in their respective Directorate/Wings in order to give it the widest possible publicity.


DA/Nil.


(B.R. Sharma)
for Director General.

DISTRIBUTION

as shown in the list
attached

BHATNAGER
18.2.1971/


Dy. Director Establishment,
A. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-3

Annexure R-3
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RESEARCH DESIGNS AND STANDARDS ORGANISATION

Manak Nagar, Lucknow.

No.A/EP/944-Pt.

Dated ~~25~~ May, 1976

MEMO.

It has been reported by Smt. Mahadevi D/O Late Shri Jivanand Badel Shahtri, Village Badolgaun, Patti Kolagarh, P.O. Tilkholi, Distt. Garwal (U.P) that she is the legal wife of Shri Gobind Ram Gonnial S/O Shri Dharamanand, Offg. Upper Division Clerk, RDSO, Lucknow. It has also been alleged by Smt. Mahadevi that Shri Gobind Ram Gonnial has married an other woman at Lucknow without her knowledge. It has further been alleged by Smt. Mahadevi that Shri Gobind Ram has three children from his 2nd wife and misbehaved Smt. Mahadevi (legal wife) by throwing her out of his house located in Village Pali, Patti Khatli Valla, Distt. Garwal.

From the above it is observed that Shri Gobind Ram Gonnial has violated Rule 21 of the Railway Services (Conduct) Rules, 1966 in marrying with another woman having a spouse living.

In view of the above Shri Gobind Ram Gonnial is directed to submit his explanation within a period of seven days from the date of receipt of this memo that why action should not be taken against him under the D&A Rules.

Sh. Gobind Ram Gonnial,
Offg. U.D.C./RDSO
through ADE-IV,
RDSO, Lucknow.

S.S. Atwal
(S.S. ATWAL)
Dy. Director Elec. IV
RDSO/LKO.

b/c
Delivered on 25.5.76

Seegunjit
25/5/76

[Signature]
25.5.76

[Signature]
Dy. Director Establishment,
R. D. S. O., Ministry of Railway
Alambagh, LUCKNOW-3

Ann - R-4
22/11/79
THE RAILWAY SERVANTS (DISCIPLINE & APPEAL) RULES, 1968
RESEARCH DESIGNS & STANDARDS ORGANISATION

No. A/EP-944

Manak Nagar, Lucknow-11

Dated: 29-1-79

MEMORANDUM

Sh. Govind Ram Gauniyal is hereby informed that it is proposed to hold an inquiry against him under Rules 9 & 10 of the Railway Servants (D&A) Amendment Rules, 1969. The allegations on which statement of allegations and the charges framed on the basis of the said allegations are specified in the enclosed statement of charges. The inquiry is proposed to be held are set out in the enclosure.

2. Sh. Gauniyal is hereby informed that, if he so desires he can inspect and take extracts from the documents mentioned in the enclosed list at any time during office hours with in 10 working days of receipt of this Memorandum. If he desires to be given access to any other official records other than those specified in the list referred to above, he should submit a list of all such additional of the documents to the undersigned within 5 days of completing the inspection of the documents mentioned in the list. Access will be given only to such of the additional records as are considered relevant. He will not be given access to any documents if it is considered that it is against the public interest to give him such access. He should complete the inspection of the additional documents within 5 days of their being made available. He will be permitted to take extracts from such of the additional documents as he is permitted to inspect.

3. Sh. Gauniyal is informed that the request for access to documents made at later stages of the inquiry will not be entertained unless sufficient cause is shown for the delay in making the request within the time limit specified above and the circumstances show clearly that the request could not have been made at an earlier stage. No request for access to additional documents will be entertained after the inquiry unless sufficient cause is shown for not making the request before the completion of the inquiry.

4. Sh. Gauniyal is further informed that he may, if he so desires, take the assistance of another Railway Servant/official of a Railway Trade Union (who satisfies the requirements of Rule (9) of the Rly. Servants (D&A) Amendments Rule, 1969 for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons, in order of preference. The nomination would be acceptable only if on the date of nomination there are not more than two other pending disciplinary cases in which the nominee(s) has (have) to assist. Before nominating the assisting Railway Servant(s) or Railway Trade Union official(s), Sh. Gauniyal should obtain an undertaking from the nominee(s) that he(they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s), if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned along with the nomination.

PTO

Ann R-4

A80

Annexure I
Encl to Memo No. A/EP-944
Dated 29-1-79

Article of charge No. I

That the said Sh. Govind Ram Gauniyal, offg. Asstt/Res Dte, RDSO Lucknow married one Smt. Mahadevi resident of Badolagran, Patti Kolagarh PO Tilkholi Distt Garhwal approximately 24 years ago. He had also a son from his this wife, who expired after some time. It is further alleged that after his transfer from RDSO/Chittaranjan to Lucknow in 1967 there was some dispute with the said Smt. Mahadevi and he left her at her mother's house in Badolagran, Patti Kolagarh PO Tilkholi Distt Garhwal. He, thereafter, contracted a 2nd marriage with a woman named Smt. Kausalya Devi who is a resident of Village Jharpani Distt Dehra Dun. He is presently living with his second wife and has three children from her. By ~~his~~ contracting a 2nd marriage /his spouse is living Sh. Gauniyal has violated rule 21(2) of the Railway Services Conduct Rules 1966, which tantamounts to gross indiscipline and misconduct on his part.

/when

Article of charge No. 2

That Sh. Govind Ram Gauniyal while working as UDC in this office contracted a 2nd marriage when his spouse is living without obtaining permission from this office, after giving grounds for doing so, in terms of Rule 21(2 a & b) of the Rly. Services Conduct Rules, 1966. This action on the part of Sh. Gauniyal tantamounts to gross misconduct.

Article of charge 3

That a suit for maintenance allowance was filed against Sh. Gauniyal by Smt. Mahadevi during Feb '75 for maintenance allowance in the court of Chief Judicial Magistrate, Pauri Garhwal. Sh. Govind Ram concealed this fact and submitted a copy of the court notice dt. 25.2.75 on 30.3.76, when Smt. Mahadevi sent an application to this office regarding contracting a 2nd marriage by him when his spouse is living and this office issued him a Memo to explain the position in this respect vide Memo No. A/EP-944 Pt dt. 16.3.76. Sh. Gauniyal therefore, concealed the facts and committed gross misconduct in the performance of his duties.

(S.N. Contractor)
Jt. Director Res(S&T)

[Signature]

[Signature]

Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-5

Am R-4

Annexure II
Encl to Memo No. A/EP-944
Dated 25-1-79

Statement of imputations of misconduct and gross indiscipline in support of articles of charges framed against Sh. Govind Ram Gauniyal, offg. Asstt, RDSO/Lucknow.

Article of charge No. 1

That Sh. Govind Ram Gauniyal, offg. Asstt, Res Dte, RDSO/Lko while working as UDC in this office and having a spouse living contracted a second marriage with full knowledge of facts, thereby violating the provision of Rule 21 of the Rly Service Conduct Rules. This tantamounts to gross indiscipline and misconduct on his part.

Article of charge No 2

That Sh. Govind Ram Gauniyal while working as an UDC in this office contracted a 2nd marriage having a spouse living without obtaining permission from this office, after giving grounds for doing so, in terms of Rule 21(2) a & b of the Rly Service Conduct Rules, 1966. He has thus violated the provision of the Rly. Service Conduct Rules.

Article of charge No. 3

That a suit for maintenance allowance was filed against him in the court of Chief Judicial Magistrate, Pauri Garhwal by Smt. Mahadevi his first wife and a notice was issued to him by the Court in Feb '75. He concealed this fact and advised the position only on 30.2.76, when this office issued a Memo to him vide No. A/EP-944 Pt on 16.3.76 on the basis of complaint filed by Smt. Mahadevi to this office vide her application dt. 22.2.75. He thus committed gross misconduct in the performance of his official duties.

(S.N. Contractor)
Jt. Director Res/S&T

Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

Ann. R-4

A70

Annexure III

Encl to Memo No. A/EP-944

Dated 29-1-79

List of documents by which the article of charges framed against Sh. Govind Ram Jauniyal, offg. Asstt are to be sustained.

1. Original application dt. 20.2.75 from Smt. Bhabadevi D/o Sh. Jivanaud Badola Shastri Village Badolagram, Patti Kolagarh PO Tilkholi, Distt Gachawal (UP).

No 1

2. Staff Notice No. A/G/II dt. 11.2.71 circulated to all Directorate in RDSO.

No 2

3. Original memo No. A/EP-944 Pt dt. 25/5/76

No 12

4. Copy of Court notice no ail dt. 20.2.75 submitted by him alongwith his application dt. 30.8.76.

No 22

5. Original Provident Fund Nomination form dt. 30.6.61.

No 82

For Aft 9/11

(S.E. Contractor)
Jt. Director Res/S&T

[Signature]

[Signature]

Dy. Director Establishment,
Q. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-3

COPY

Am - R-5

Su 81/1

IN THE COURT OF THE SESSIONS JUDGE: PAURI GARHWAL.

Present: Sri I.P. Mital.
Criminal Revision No.2 of 1979.

A71

Govind Ram..... Versus..... Smt. Mahadevi.

JUDGMENT

This is a revision against the order dt. 14.12.78 passed by Sri R.S. Garg, Chief Judicial Magistrate, Pauri, by which he directed the applicant to pay Rs.100/- per month as maintenance to his wife, who is the opp. party.

2. The opp. party, Smt. Mahadevi, filed an application U/s 125 Cr.P.C. against the present applicant. She alleged that she was married to him about 22 years back. A son was born to her but unfortunately the son died. Her husband was displeased with her because she did not give birth to any other child. About 7 years back her husband left her in the village in order to look after the agriculture. She continued to live in the village and only sometime back she came to know that her husband has married again without her consent and four children were born to him from his second wife. One of the children has died and the remaining three are living with him. In Oct. 74 her husband came to the village along with his second wife and children and lived there for about one month. After sometime he returned her out of the house under the influence of his second wife after snatching her ornaments. Since then she was living with her mother. She alleged that there is no means of her maintenance and there is danger of her dying of hunger. Her husband gets a salary of Rs.700/- per month. According to her, her old mother is also unable to maintain her. She, therefore filed the application claiming Rs.300/= per month as maintenance.

3. The application was contested by her husband, Govind Ram. He admitted his marriage with Smt. Mahadevi. He, however, denied that he has married again. According to him, he had left his wife in the village to look after his old mother and agriculture. After sometime she went to the village of her mother and has refused to return to him. The contentions was that it was Smt. Mahadevi who has deserted him and as such she was not entitled to claim any maintenance. His total salary was Rs.578/- per month and Rs.300/- per month are deducted from his salary towards the house rent, provident fund, etc.

4. The learned Magistrate held that Govind Ram has married again and as such Smt. Mahadevi was justified in refusing to live with him. He, therefore, directed Govind Ram to pay Rs.100/- per month for her maintenance. Govind Ram has come up in revision against the above order.

5. I have heard the learned Counsel for the parties and have gone through the record of the case. It was pointed out on behalf of the applicant that there was absolutely no evidence of second marriage by him. Smt. Mahadevi clearly stated in her statement that she was not prepared to live with him any more. Govind Ram has offered to maintain her. The contention was that under the circumstances she was not entitled to claim

P.T.O.

Annexure R-6

Annexure R-6

Proceedings of enquiry against Shri Govind Ram Gauri,
Assistant, RDSO, Lucknow, held on 27th April, 1979.

A72

22

- Q.1 Have you seen the charge sheet and relevant documents ?
- Ans. Yes
- Q.2 Are you married ?
- Ans. Yes, I am married.
- Q.3 Are you aware of the Service Conduct Rules, specially pertaining to bigamous marriage ?
- Ans. Yes.
- Q.4 Whether you were married when you joined RDSO ? And if so, did you mention this fact in your charge report ?
- Ans. I was married when I joined RDSO, There was no procedure to report this fact at the time of first charge report and so it was not reported.
- Q.5 To which place your wife belongs ? What is your permanent home address ? What is the name and parentage and original home address of your wife ?
- Ans. My wife belongs to district Garhwal, My home address is - Village - Pali, Tehsil- Lansdonne, Garhwal, My wife's name is Mahadevi, she is daughter of late Shri Givanand Badola, village - Badolgaon, Tehsil- Lansdonne, District Garhwal.
- Q.6 How many children were born out of the wedlock ? State their date of birth, name and state what they are now doing, including addresses of schools etc.
- Ans. I have no issues.
- Q.7 When did you first bring your wife to Lucknow? Whether you were keeping your wife with you when you were at Chittaranjan ?
- Ans. I brought my wife to Lucknow in 1962. Yes, I was keeping my wife with me when I was at Chittaranjan.
- Q.8 Who is Shri Mati Mahadevi and how is related or known to you ?
- Ans. She is my wife, married to me in 1956.
- Q.9 As alleged by Shrimati Mahadevi that she is your legally wedded wife, what have you to say. Had you any children from her ?
- Ans. She is my legally wedded wife. I have already stated that I have no issues.

Signature
27/4/79
DDF/EC-II

Signature
By. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

A73

Q.19 Have you got a Medical Identity Card ?

Ans. No

Q.20 Are you living in Rly colony (RDSO colony) and if so, why you are not availing facilities of medical treatment from Rly hospital ?

Ans. I do not prefer to have railway's medical treatment. your

Q.21 Have you taken or taking any passes/PTOs for children ?

Ans. I have not taken/taking passes/PTOs for my children.

Q.22 Kindly give details of your family members with names and ages who are living with you at present ?

Ans. My family at present consists of -1. Self, (45 yrs),
2. Widow mother (78 yrs)
3. Widow sister (52 yrs)

Q.23 Since when Shrimati Mahadevi is not living with you ?

Ans. Since January, 1975.

Q.24 After January, 1975 have you helped Shrimati Mahadevi financially and if so, in what capacity and what type of help ?

Ex 24

Ans. I have been helping her in cash and kind.

Q.25 When did you first file your nomination of SRPF and in whose name ? Have you made any subsequent changes and if so, why ?

Ans. As far as I remember, I filed nomination for SRPF in favour of Shrimati Mahadevi in 1962. I have not made any subsequent changes.

Q.26 Have you got any Insurance policy ? and if so, who is the nominee for its benefits ?

Ans. I have no Insurance Policy.

Handwritten:
27/4/79
DDR/EL-II

Handwritten:
27/4

*Received Copy
in three parts.*

Handwritten:
20/9/79

Stamp:
By. Director, RDSO
R. D. S. O., Ministry of Railways
Alambagh, Lucknow

174

Annexure R-7
950487

RESEARCH DESIGN'S & STANDARDS ORGANISATION
MANAK NAGAR: LUCKNOW-11.
ADMINISTRATION BRANCH

Ref. No. A/R/ACG

Dated: 31-1-1984.

Sub:- Appointment on compassionate grounds.

Ref:- Note of even No. dt. 22-6-83.

.....

In continuation of Admn. Branch's note quoted above, a copy of Rly. Board's letter No.E(NG)III/78/RCI/1/1 dt. 7-4-83 on the subject cited above is reproduced below for information and guidance.

(K.Kumar)

PA:As above.

Dy. Director/Admn.

DISTRIBUTION

JDF, DPT-I,II, TFM., SO/E-I, III, IV, Rectt., Confdl.,
SO/Audit & Vel. Sec.

Copy of Railway Board's letter No. E(NG)III/78/RCI/1 dt. 07-4-83,
addressed to the DG/DMC/IKO and others.

.....

Sub:- Appointment on compassionate grounds.

.....


Instructions regarding appointment on compassionate grounds have been issued from time to time. The instructions currently in force are those contained in Board's letter No.E(NG)III-78/RCI/1 dated 30-4-1979 as modified from time to time thereafter. These have now been consolidated and are reproduced below for the information and guidance of all concerned.

I. Circumstances in which compassionate appointments may be made.

Appointments on compassionate grounds relate to those appointments which can be made of dependants of Railway servants who lose their lives in the course of duty or die in harness otherwise while in service or are medically incapacitated. The circumstances in which appointments on compassionate grounds may be made are as below:

- (1) When Railway servants lose their lives in the course of duty or get so crippled that they cannot do any work (this also in the course of duty - for example, loco and traffic running staff in charge of trains involved in accidents).
- (ii) When Railway employees die in harness while in service before retirement.

.....2/-


Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-1

III. Time limit for making compassionate appointments.

Normally all appointments on compassionate grounds should be made within a period of 5 years from the date of occurrence of the event entitling the eligible person to be appointed on this ground. This period of 5 years may be relaxed (where for example the widow cannot take up employment & the sons/daughters are minor) with the approval of the General Manager in deserving cases while compassionate appointments are sought on the ground of an employee losing his life or getting crippled in the course of duty. In other cases relaxation of the 5 year limit will require the approval of the Ministry of Railways for which purpose the requisite reference giving special reasons for the proposed relaxation should be made with the personal recommendation of the General Manager based on the special circumstances obtaining in individual cases.

IV. Qualifications and conditions to be fulfilled.

Normally the persons seeking appointment on compassionate grounds should fulfil the conditions of eligibility regarding age and educational qualifications prescribed for appointment to the post or grade concerned. However, the upper age limit may be freely relaxed on the merits of the cases. The lower age limit of 18 years normally required for appointment in Government may also be relaxed upto one year with the personal approval of the General Manager. Relaxation of the lower age limit beyond one year will require the approval of the Ministry of Railways.

The educational qualification prescribed for the post to be offered should not in any case be relaxed. However, if on the merits of an individual case the General Manager feels that such a relaxation of the minimum educational qualification is absolutely necessary, then such cases may be referred to the Ministry of Railways.

V. Grades in which appointments can be made on compassionate grounds.

All appointments on compassionate grounds should be made only in the recruitment grades like Office Clerks, Commercial Clerks, Assistant Station Masters, etc. No appointment should be made on compassionate grounds in an intermediate grade i.e. one which is filled purely by promotion. Appointments on compassionate grounds are also not permissible in the category of Traffic Apprentices/ Commercial Apprentices (grade Rs. 455-700) and Engineering graduate apprentices (grade Rs. 550-750) because direct recruitment in these grades is proportionately very limited.

.....4/-

[Signature]
By. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW.

A76

It is felt necessary to depart from the priority list, the sanction of the next higher authority (GPO for appointments to group 'C' posts) must be obtained giving details for ignoring the priority and the list of persons being put back in the priority list. Such cases should, however, be rare.

A time limit of one month should be observed within which appointments should be given in priority (i) cases and three months in cases relating to priority (ii) and (iii) subject to vacancies being available. To accommodate the illiterate widows of the deceased railway employees, posts of Waiting Room heaters, Waterwomen, Hospital ayah/attendant (female), Cinder picking women, Sweeper women, C&V Khalasis for waste picking, Retiring room attendant, Servers, Khalasis attached to Sub-divisional offices like ATMs PWs, a percentage of vacancies of office-peons etc.

IX. General.

When offering appointment on compassionate grounds to a widow, son, daughter, etc. it need not be checked up whether another son/daughter is already working; but in no case should there be more than one appointment against one death/medical incapacitation. For example, it should not be permitted where the family wants another son or daughter to be employed in lieu or in addition to an appointment already made on compassionate grounds.

Once an appointment on compassionate grounds of the ward/widow etc. has been made in a particular category, no change of category is subsequently permissible.

X. Relaxation.

Wherever any deviation from the above provisions are sought to be made in individual cases of merit, the prior approval of the Ministry of Railways should be obtained and in such cases personal approval of the General Manager should be indicated in the references.

Hindi version will follow.

Sd/-
(H.T. BHAGAT)
DEPUTY DIRECTOR ESTT. (N)
RAILWAY BOARD.

[Signature]
By, Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-3

Ann - R-8

A77

Confidential

Research Designs & Standards Organisation

Manaknagar, Lucknow

No. Pass/Priv.

Dated: 24.9.79.

Sub: Departmental enquiry against Shri Govind Ram
Gauniyal Assistant.

Ref: DDR/EL-II's note No. A/EP-944 dt. 16.7.79.

....

With reference to DDR/EL-II's note under reference, it is advised that old records of Pass & PTO upto 1971 have been weeded out in the normal course in the year 1975. During 1976 and partly 1977, Shri Govind Ram was working in TEN's office and as such TEN/RDSO may be asked for producing pass & PTO records for that period.

After scrutiny of the pass records, the pass applications and pass counter foils as per enclosed list wherein Shri Govind Ram has taken passes for his wife and children can be produced in the enquiry. If some more records are required to be inspected, these can be referred to or seen in the Pass Section.

DA:One

(Naunit Lal)
Section Officer (Recd.)

DDR/EL-II/RDSO/Lko.

By: Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

Shri G.H. Gauniyal Assistant

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S.No.	Pass No. & date	From	To	Family members
1.	✓ II 28349 dt. 4.1.74 ✓ One set	IMM & back	DDN	Self, wife w/mother aged 72 yrs., w/ sister aged 47 yrs. & one son aged 4 yrs.
2.	✓ II 28392 dt. 29.1.74 ✓ Half set	IMM	DDN	Self, wife w/mother & sister & one son aged 4 yrs.
3.	✓ II 28708 dt. 11.3.74 ✓ Half set	DDN	IMM	Self, wife w/mother & one son aged 5 yrs.
4.	✓ II 31338 dt. 3.5.75 ✓ One set	Lko to IMM & back to DDN		Self, wife w/mother & 2 sons aged 3 & 5 yrs.
5.	✓ II 44067 dt. 27.5.77 ✓ Half set	Lko to Koldwara		Self, w/mother, w/ sister & 2 sons aged 8 & 6 yrs.
6.	✓ II 48217 dt. 8.5.78 One set	IMM to DDN & back		Self, wife, 2 sons & one daughter aged 9, 7 & 5 yrs respectively.
7.	✓ I 93864 dt. 1.6.79 ✓ One set	Lko to DDN and back to Howrah		Self, wife, w/mother & two sons aged 10 & 8 yrs.

24/9/79

*Recd 11/11/79
G.H.*

[Signature]
Dy. Director Establishment,
R. D. S. O., Ministry of Railways,
Alambagh, LUCKNOW-5

Annexure R-9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH LUCKNOW

A79

REPLY ON BEHALF OF RESPONDENTS NOS. 1 & 3

IN

Registration No.123 of 1989 (1)

Pramod Gauniyal & Others ...

Applicants

Vs.

Union of India & Others

Respondents.

ANNEXURE R-2

A/EP-944

29-12-1988

MEMORANDUM

Smt.Dikka Devi, widow mother, Smt.Maha Devi, the first wife (since divorced) but getting maintenance from the deceased till his death and Smt.Kaushalya Gauniyal claiming to be the wife of the deceased, who have submitted their claims separately for payment of settlement dues in respect of late Govind Ram Gauniyal Ex.Asstt. who had expired on 4.11.87, are informed that they should submit the succession certificate issued under the provisions of Succession Act 1925 from the Competent Court of the respective Jurisdiction, establishing clearly their right to the claims to enable this office to arrange payment to the legal heirs. They are further informed that while making an application in the competent Civil Court, they should clearly mention that there are other claimants also for the dues so that proper notices are issued to them by the competent court of jurisdiction for the issue of Succession Certificate in favour of one or all.

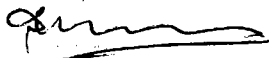
2. The following settlement dues will be payable on production of Succession Certificate to the concerned party.

I.	Death-cum-Retirement Gratuity:	Rs.62,000.00
II.	SRPF:	1,865.00
III.	(a) GIS:	40,000.00
	(b) Discounted value:	1,944.00
IV.	Leave incashment for 146 days:	11,000.00
V.	Salary for the period from 1.11.87 to 4.11.87:	312.00
VI.	PL Bonus for the period from April 87 to 4.11.87.	1,350.00

Rs.1,18,471,00

Sd/-
(M.Lal)


for Director General
29.12.88


Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-3

1780

To:

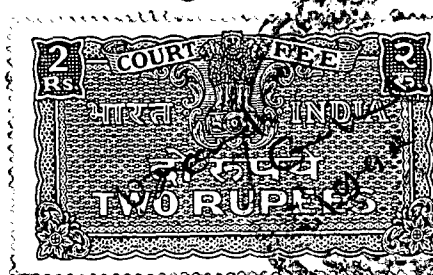
1. Smt. Dikka Devi Gauniyal,
B-36/3, RDSO Colony,
Manaknagar, Lucknow-226011.
2. Smt. Maha Devi Gauniyal,
W/o late Shri G.R. Gauniyal,
C/o C-290, Kidwai Nagar,
New Delhi-110023.
3. Smt. Kaushalya Gauniyal,
B-36/3, RDSO Colony,
Manak Nagar, Lucknow-226011.


Dy. Director Establishment,
R. D. S. O., Ministry of Railways
Alambagh, LUCKNOW-2

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ,
Lucknow Circuit Bench, Lucknow.

Registration No. 123 of 1989 (L)



Pramod Gauniyal & others. ----- Applicants.

Versus

Union of India & others. ----- Respondents.

REJOINDER AFFIDAVIT

I, Pramod Gauniyal, aged about 19 years,
son of Late Sri Govind Ram Gauniyal, resident of
House of Smt. Asha Gussain, Deep Nagar, (Dhindha
Kehra) P.O. - Manak Nagar, Lucknow, do hereby
solemnly affirm and state as under :-

1. That the deponent is the applicant no. 1
and elder son of Late Sri Govind Ram Gauniyal, who
had expired on 4.11.87 , while in active Government
Service, in the Office of Director General, Research
Designs and Standard Organisation, Manak Nagar,
Lucknow.
2. That the deponent has read the reply dated
nil, of the month of January, 1990 filed on behalf of
Respondents Nos. 1 and 3 and has understood the
contents thereof and parawise replies to the contents
of said reply of Respondents Nos. 1 and 3 , are being
given here - as under :-
3. That the contents of para 1 of reply of

Pramod Gauniyal

respondents Nos. 1 and 3 (here - in - after referred to as ' Reply) need no comments.

4. That the contents of para 2 of Reply are misconceived and misleading and are not admitted as stated. In para 2 (a) of Reply only this much is admitted that my father Late Sri Govind Ram Gauniyal was appointed as Lower Divisional Clerk , in R.D.S.O. w.e.f. 26.12.56 and subsequently had got promotion to the post of Assistant , in R.D.S.O. w.e.f. 16.11.77. And while working as Assistant in the scale of Rs. 425 - 800 , he expired on 4.11.87 i.e. before his actual retirement. The deponent's mother Smt. Kaushlya Gauniyal is widow of Late Sri Govind Ram Gauniyal and the Hon'ble Civil Judge, Malihabad, had issued succession certificate in favour of Smt. Dikka Devi, who has also expired on 4.11.1989.

5. That in reply to the contents of para 2 (a) of Reply, it is submitted that deponent's father Late Sri Govind Ram Gauniyal had ~~divorced~~ divorced his first wife Smt. Maha Devi on 15.5.1967 (kindly see enclosure (1) of Annexure 5) as per the rites and customs prevalent in his village - Pali Patti Khatauly, post - Kasani, District - Pauri - Garhwal, which was duly approved and consented by the five village Panch-as and the Gram Pradhan of Village Pali and accordingly the aforesaid marriage with Smt. Maha Devi was dissolved on 15.5.1967. And further the deponent's father Late Sri Govind Ram Gauniyal had also obtained a decree for divorce against his first wife Smt. Maha Devi.



of Civil Judge, Pauri Garhwal on 26.3.1982 (kindly see enclosure (6) of Annexure - 5 of application) only to become doubly sure.

6. That in reply to the contents of para 2 (a) of Reply, it is further submitted that after obtaining the aforesaid divorce , my deceased father married with my natural mother Smt. Kaushlya ~~E~~ Gauniyal, applicant no. 2 of this application, on 2.2.1968, as per Hindu Rites and Customs at Dehradun. True copies of Marriage Invitation Card and Marriage Certificate are annexed as Enclosures (2) and (3) of Annexure - 5 to the application. And since 2.2.1968 , my deceased father Late Sri Govind Ram Gauniyal and my mother Smt. Kaushlya Gauniyal were living together as husband and wife and due to this wedlock my aforesaid mother gave birth to 3 sons and one daughter including the deponent, during the service period of Late Sri Govind Ram Gauniyal. And all these family members including the deponent were given all the facilities by R.D.S.O. , which is evident from enclosures (4) and (5) of Annexure - 5 and from Annexure - 8 to the application.

7. That the contents of para 2 (b) of Reply are false , misleading and are emphatically denied. It is submitted that Late Sri Govind Ram Gauniyal had performed the marriage with Smt. Kaushlya Gauniyal and the Railway Passes, Medical Facilities and benefits of tuition reimbursement fees had been correctly drawn by Late Sri Govind Ram Gauniyal from the R.D.S.O., and the authorities of R.D.S.O. had allowed these benefits to the father of deponent and

10/02/83 Gauniyal

his family for several years after verifying and checking the truth.

8. That the contents of para 2 (c) of Reply are misconceived, misleading and are emphatically denied. It can not be said that Late Sri Govind Ram Gauniyal had denied his marriage with Smt. Kaushlya Gauniyal and also the fact of having 3 sons and one daughter as the marriage was performed strictly according to Hindu rites and thereafter several benefits, stated above, had been allowed by the Authorities of R.D.S.O., for several years. The deponent is stating on oath that he is the elder son of Sri Govind Ram Gauniyal, The deponent's claim for appointment in R.D.S.O. on compassionate grounds has legal sanctity and is liable to be allowed. It is expedient in the interest of justice that the respondents be directed to appoint the deponent w.e.f. 14.12.87, in R.D.S.O., with all the consequential benefits and the respondents be restrained from further harassing the deponent.



9. That the contents of para 2 (d) of Reply are denied as stated except that the Railway Board's order dated 7.4.83 also provides for appointment of deponent of deceased employee on compassionate grounds. Rest contents of para 2 (d) of Reply are misconceived, misleading and are denied. The deponent is the eldest son of Late Sri Govind Ram Gauniyal and has right to be appointed in R.D.S.O. on compassionate grounds. The appointment of deponent can not be denied on the wrong plea of discretion.

Rames Gauniyal

It is added that the discretion should not be used in an arbitrary and illegal manner to harass the dependents of Late Sri Govind Ram Gauniyal, who had met agonising death while in active service. In this particular case the plea of discretion is being raised in a most discriminatory and illegal manner by the respondents without applying their mind. The respondents are not using the power of discretion within the limits allowed by positive rules of law. The respondents in their discretion have completely ignored the principles of natural justice and provisions of Article 14 and 16 of the Constitution of India.

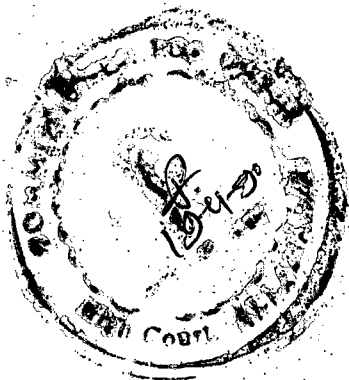
10. That the contents of para 3 of Reply need no comments.

11. That the contents of para 4 of Reply need no comments.

12. That in para 5 of reply, the respondents Nos. 1 and 3 have admitted that Late Sri Govind Ram Gauniyal had rendered about 31 years service in the department.

13. That the contents of para 6 of Reply are misconceived, misleading and are not admitted. It is added that from the perusal of Railway Pass, Medical Card and reimbursement of Tuition Fees by the R.D.S.O., clearly prove that Smt. Kaushlya Gauniyal was wife of Late Sri Govind Ram Gauniyal and the deponent (Pramod Gauniyal), Vinod Gauniyal, Manoj Gauniyal and Km. Sobha Gauniyal are sons and daughter of Late Sri Govind Ram Gauniyal. It is submitted that the

Pramod Gauniyal



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nomination of his children were duly submitted by Late Sri Govind Ram Gauniyal and in the Medical Card, annexed as Enclosure (4) of Annexure - 5. Further the payment of reimbursement of Tuition Fees to the children of Late Sri Govind Ram Gauniyal clearly shows that the names of children were on the record and the department was fully aware about the marriage of Smt. Kaushlya Gauniyal with Late Sri Govind Ram Gauniyal and about children ~~wkk~~ of Late Sri Govind Ram Gauniyal. It is added that Smt. Dikka Devi, expired on 4.11.1989, was residing with the deponent and his mother Smt. Kaushlya Gauniyal, and being eldest member and Karta of family, Smt. Dikka Devi had applied for issue of succession certificate for the payment of outstanding dues. The deponent's mother Smt. Kaushlya Gauniyal and the deponent had filed their no objection with affidavit in favour of Smt. Dikka Devi stating therein that Smt. Dikka Devi was Karta of our joint family and on the basis of these no objections the necessary succession certificate was issued in case no. 122 / 88, a copy of which certificate is annexed as Annexure - 7 to the application. The alleged statement dated 27.4.1979 contained in annexure R - 6 to Reply is neither in the knowledge of deponent nor has any relevance in view of the fact that the department / R.D.S.O. authorities had accepted the marriage of Smt. Kaushlya Gauniyal with Late Sri Govind Ram Gauniyal and also the fact of their 3 sons and one daughter by issuing Medical Card, Railway Passes and Tuition Fees reimbursement before 27.4.79 and continuously thereafter for several years upto the death of Late Sri Govind Ram Gauniyal. Smt.



Pramod Gauniyal

A87

-- 7 --

Kaushlya Gauniyal was legally wedded wife of Late Sri Govind Ram Gauniyal. The deponent (Promod Gauniyal), Manoj Gauniyal and Vinod Gauniyal are their 3 sons and Km. Sobha Gauniyal is daughter of Late Sri Govind Ram Gauniyal and Smt. Kaushlya Gauniyal.

14. That it is further submitted that the deponent's father Late Sri G.R. Gauniyal and his mother Srimati Kaushlya Gauniyal had a joint Saving Bank Account no. 6144 in the Central Bank of India, R.D.S.O. Branch, Lucknow. A true photo copy of first page of this Savings Account Book is annexed as Annexure R.A. - 1 to this Rejoinder Affidavit. Further it is added that Late Srimati Dikka Devi, the grand-mother of deponent in her life time on 22 - 2 - 1988 had made a registered Will, which was duly registered at Bahi no. III Zild 488, on pages 272 to 274, at Sl. no. 140 on 25 - 3 - 1988, at Sub-Registrar Office, Lucknow. In this Will dated 22-2-1988 Smt. Dikka Devi had stated all facts about marriage of Smt. Kaushlya Devi with her son Late Sri Govind Ram Gauniyal and also about the deponent and other grandsons and a grand-daughter. A true photo copy of this Will dated 22-2-1988 is annexed as Annexure as R.A. - 2 to this Rejoinder Affidavit. It is worth mentioning that the Deponent's father Late Sri Govind Ram Gauniyal had been residing along with his above said family members including the deponent in the Govt.



Promod Gauniyal

The contents of para 4 (15) of application are relevant and are reiterated.

25. That the para 17 is missing in the Reply.

26. That the contents of para 18 of Reply are wrong and are emphatically denied. The contents of para 4 (16) of the application are reiterated.

27. That the contents of para 19 of Reply are wrong, misleading and are not admitted. The grounds mentioned in para 5 of application have merits and on those cogent ~~grounds~~ grounds, the application of applicant is liable to be allowed. The deponent is fully entitled to get the reliefs claimed in the application. The deponent is legal and natural son of Late Sri Govind Ram Gauniyal and Grand son of Late Smt. Dikka Devi. Smt. Dikka Devi had expired on 4.11.1989. The deponent (Pramod Gauniyal), and Sri Manoj Gauniyal and Sri Binod Gauniyal are 3 sons of Late Sri Govind Ram Gauniyal and Km. Sobha Gauniyal is his daughter. The deponent being legal and natural elder son of Late Sri Govind Ram Gauniyal is fully entitled for appointment on compenssionate grounds. It is added that even an illegitimate son has a status of a son under Hindu Law and he is a member of the Father's family as observed by Hon'ble Supreme Court, in case of Ajit Kumar Singhari -- Versus --

Ujayar Singh - 1961 SC 1334. However the deponent

Pramod Gauniyal

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-- 13 --

being legitimate son is fully entitled for appointment on ~~compassionate~~ compassionate grounds. The contents of para 5 of application are reiterated.

28. That the contents of paras 6 and 7 of application, which have not been denied in para 20 of Reply, are reiterated.

29. That the contents of paras 21 and 22 of Reply are emphatically denied. The contents of paras 8 and 9 of application are reiterated. The deponent is fully entitled to get all the reliefs claimed in the Claim Petition. The deponent is legal and natural son of Late Sri Govind Ram Gauniyal and is fully entitled to be appointed under the respondents on compassionate grounds.

30. That the contents of para 23 of Reply need no comments.

31. That the application is liable to be allowed with costs and the deponent is entitled to get all the reliefs claimed in the application.

Lucknow:

Dated: 19-4-1990.

Bamal Gauniyal

DEPONENT.

VERIFICATION.

I the above deponent do hereby verify that the contents of paras 1 to 30 of this Rejoinder



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Affidavit are true to my own knowledge and belief, and those of para 31 thereof are believed to be true by me. No part of it is false and nothing material has been concealed.

SO HELP ME GOD.

Lucknow:

Pramod Gauriel 253

Dated: 19 - 4 - 1990.

DEPONENT.

I identify the deponent,
on the basis of documents produced
by him, who has signed before me.

S Dhasman
Advocate.
19/4/90



Pramod
12/1/78
19-4-90

-15-

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In the Central Administrative Order No

Reg no 123 of 1989 (L)

Pramod Gaunyal & others — — Affiliates
Very
Nelson & others — Respondents

Annexure No. RA-1

बचत खाता सं. 61614
SAVINGS A/C. No.

सेन्ट्रल बैंक ऑफ़ इंडिया
Central Bank of India

R. D. S. O. Manak Nagar शाखा
Lucknow — — — — — U. P. Branch

बचत खाता
SAVINGS ACCOUNT

पासबुक की क्र. सं.
Serial No. of Pass Book.

नाम
Name Sri G. R. Gaunyal

Smt. Kausalya Gaunyal

पता
Address B-30/3, Manak
Nagar, Lucknow.

निर्देश
Instructions.

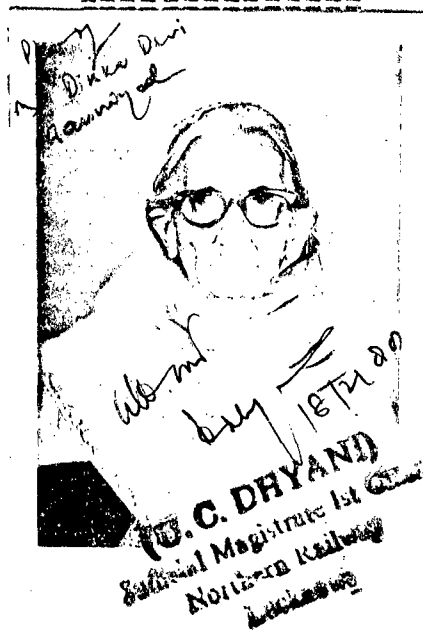
तारीख
Date 15-1-1989

लेखाकार
Accountant



Dr. Gaunyal

वसीयतनामा



मनुष्य के जीवन का कोई भरोसा नहीं है। जो भी व्यक्ति उत्पन्न हुआ है

वह अवश्य ही शरीर का परित्याग करेगा। अतएव प्रत्येक व्यक्ति को

चाहिये कि वह अपने जीवनकाल में अपनी सम्पत्ति व उसके नाम पर भविष्य

में दिये जाने वाले धन का, अपने जीवनकाल में ही इस प्रकार उपयोग कर

जायें, जिससे कि उसके संसार छोड़ने के बाद उसकी सम्पत्ति को लेकर कोई

वाद विवाद उत्पन्न न हो सकें। अतः मैं श्रीमती पद्मका देवी गौनियाल

आयु लगभग 85 वर्ष, पत्नी स्वर्गीय श्री धर्मानन्द गौनियाल, निवासी

बी-36/3 आर० डी० एस्० ओ० कालोनी, मानक नगर लखनऊ-26011,

मूल निवासी ग्राम -पाली, पेट्टी-छाटलीतल्लो, पो० -कोटा महादेव,

जिला पौड़ी गढ़वाल ॥ उत्तर प्रदेश ॥ अपने जीवन काल का यह पूरा एवं

अन्तिम वसीयतनामा करती हूँ जिससे कि मेरे शरीर परित्याग करने के

P. C. Dhyani

बाद मेरी चल एवं अपल सम्पत्ति व मेरे एवं

मात्र पुत्र स्वर्गीय श्री

गोविन्द राम गौनियाल के नाम पर मुझे दा जाने वाली धनराशि के बारे में कोई वाद विवाद न खड़ा हो सकें। चूँकि मेरी उम्र लगभग 85 वर्ष हो चुका है और मेरे जीवन काल का कोई भरोसा नहीं है अतः मैं अपने जीवनकाल के इस प्रथम एवं अन्तम वसीयतनाम द्वारा अपनी मृत्यु के पश्चात वाली धनराशि के इन्तजाम के लिये यह वसीयतनामा कर रही हूँ।

मेरे पति स्वर्गीय श्री धर्मानन्द गौनियाल का इन्तकाल लगभग 43 वर्ष पूर्व हो चुका है। मेरे उपरोक्त पति के द्वारा मुझसे पैदाइसी एक मात्र सन्तान स्वर्गीय श्री गोविन्द राम गौनियाल की भा मृत्यु 4 नवम्बर 1987 को हो गयी है। मेरे उपरोक्त एक मात्र पुत्र स्वर्गीय श्री गोविन्द राम का विवाह 1953 में श्रीमती महादेवा से हो गया था। स्वर्गीय श्री गोविन्द राम ने श्रीमती महादेवी से 15 मई 1967 को गाँव समाज एवं हमारी जाति की परम्परागत विधि से वैवाहिक सम्बन्ध विच्छेद कर लिया। यह सम्बन्ध विच्छेद गाँव -पाली, पट्टी छाटली तल्ली जिला पौड़ी गढ़वाल की पंचायत जिसमें गाँव प्रधान एवं पाँच पंच शामिल है के सामने लिया गया और स्वर्गीय श्री गोविन्द राम ने श्रीमती महादेवा के बुरे पारत्र की एवं वैवाहिक सम्बन्ध विच्छेद की घोषणा विधिवत रूप से पंचायत के

(जवाब नं० १)

(जवाब नं० २)

श्रीमती सिन्हा देवी

Rames Gauriyal

-3-

सामने की। तत्पश्चात् 1982 में स्वर्गीय श्री गोविन्द राम ने श्रीमती

महादेवी से द्बारा वैवाहिक सम्बन्ध विच्छेद न्यायालय द्वारा लिया जो

1967 में वैवाहिक सम्बन्धों के विच्छेद की पुष्टी मात्र के लिये लिया गया

था। मेरे पुत्र स्वर्गीय श्री गोविन्द राम गौनयाल ने अपने प्रथम विवाह

के सम्बन्धों को 15 मई 1967 को विच्छेद कर लेने के बाद 2 फरवरी

1968 को हिन्दू रीति एवं रिवाज से कौशल्या से अपना द्वितीय विवाह

किया। स्वर्गीय श्री गोविन्द राम गौनयाल और श्रीमती कौशल्या

गौनयाल एक दूसरे के साथ आन्तम समय तक पति पत्नी की तरह रहे हैं।

स्वर्गीय श्री गोविन्द राम गौनयाल एवं श्रीमती कौशल्या गौनयाल को

इस समय तीन पुत्र एवं एक पुत्री है। पुत्रों के नाम प्रमोद गौनयाल, मनोज

गौनयाल, विनोद गौनयाल एवं पुत्री का नाम शोभा गौनयाल है। मेरे

पुत्र स्वर्गीय श्री गोविन्द राम गौनयाल की मृत्यु के बाद मेरी बहू श्रीमती

कौशल्या गौनयाल पर ही मेरे उपरोक्त पौत्रों की देखरेख एवं रखरखाव

की सारी जिम्मेदारी है। चूँकि मेरा सबसे बड़ा पौत्र प्रमोद गौनयाल

अभी केवल 16 वर्ष ही पूर्ण कर पाया है इसलिये मैं अपनी कुल वल एवं

अवल सम्पत्ति को अपनी बहू श्रीमती कौशल्या गौनयाल को देना चाहती

हूँ ताकि मेरी मृत्यु के बाद मेरी बहू इस सम्पत्ति एवं मुझे स्वर्गीय श्री

Pramesh Gauriyal

गोविन्द राम गौनियाल के बाबत रिसर्व डिजाइन एवं स्टैन्डर्ड ऑरगेनाइजेशन मानक नगर, लखनऊ से उनकी मृत्यु के बाद मिलने वाले धन का उपयोग अपनी इच्छानुसार कर सकें। और मेरे पौत्रों की उत्तम शिक्षा, भरण-पोषण एवं रखरखाव का प्रबन्ध कर सकें। चूँकि मुझे मेरे पुत्र स्वर्गीय श्री गोविन्द राम गौनियाल एवं मेरी बहू श्रीमती कौशल्या गौनियाल ने ही मेरे वृद्धावस्था एवं शारीरिक क्षीण अवस्था एवं बिमारी में मेरी सेवा, देखरेख एवं भरण पोषण किया है इसलिये श्रीमती कौशल्या गौनियाल ही मेरे द्वारा छोड़ी जाने वाली सम्पत्ति व मेरे नाम पर भाव्य में मिलने वाले धन की इस समय एक मात्र नैतिक उत्तरदायी है। किसी भी और व्यक्ति एवं मेरे पुत्र स्वर्गीय श्री गोविन्द राम गौनियाल की पहली पत्नी उपरोक्त श्रीमती महादेवी का इस पर न तो कोई कानूनी न तो कोई नैतिक अधिकार है और न ही मैं उन्हें अपनी मृत्यु के बाद कोई भी उत्तरदायित्व व अधिकार अपनी सम्पत्ति की बाबत देती हूँ। और अगर मेरी मृत्यु के बाद उपरोक्त श्रीमती महादेवी कोई भी वाद विवाद या दावा या अधिकार मेरी चल एवं अवल सम्पत्ति अथवा मुझे स्वर्गीय श्री गोविन्द राम गौनियाल की मृत्यु की बाबत मिलने वाले धराश की बाबत उठा

(जवाब न० १)
(जवाब न० २)

० ओ दाहिना
श्रीमती कौशल्या देवी

Premod Gauriged



करती हैं तो उसे अनैतिक, गैर कानूनी एवं ग़ैरना तर्कों भी अधिकार के समझा जायें। उपरोक्त सन्दर्भ में मैं अपने जीवन के इस पृथक् एवं अन्तम वसीयत नामा के द्वारा अपनी सम्पत्ति एवं मेरे नाम पर दी जाने वाली धनराशि का इन्तजाम निम्न प्रकार से करती हूँ:-

क:- यह कि मेरे नाम पर एवं मेरे एकमात्र स्वामित्व एवं अधिकार की निम्न अवल सम्पत्ति गाँव पाली, पट्टी - छाटली, तल्ली, गिला-पौड़ी गड़वाल में है जिसकी मैं एक मात्र तनहा मालिक एवं स्वामी हूँ:-

॥१॥- एक किता मकान केवल ऊमरा मंजिल का जिसका क्षेत्रफल लगभग 500 वर्ग फुट है व जिसके पूर्व में रास्ता, उत्तर में मकान जगन्नाथ प्रसाद दक्षिण में मकान गंगादत्त एवं पश्चिम में छाती जमीन है इस मकान के निचली मंजिल के मालिक श्रीमती देवी देवी पत्नी स्वर्गीय श्री धनंजय हैं। स्वर्गीय धनंजय मेरे पात स्वर्गीय श्री धर्मानन्द गौनवाल की पहली पत्नी स्वर्गीय श्रीमती शंकरा देवी से उत्पन्न एक मात्र पुत्र थे। स्वर्गीय धनंजय को मेरे पात की जानदानों एवं उनकी कुल वल एवं अवल सम्पत्ति में से बराबर का आधा हिस्सा पहले ही आपसी समझौते के बाद दिया जा चुका है। एतएव स्वर्गीय धनंजय की पत्नी श्रीमती देवी देवी का मेरा सम्पत्ति जो इस वसीयत में दिखलायी गयी है पर कोई भी नैतिक

(जवाहर नं० २)

(जवाहर नं० २)

नि. अ. दाहिना
श्रीमती देवी देवी

Pramod Gaunjal

कानूनी एवं किसी प्रकार का कोई भी अधिकार नहीं है तथा उनके द्वारा

किसी भी प्रकार का वाद विवाद मेरी इस सम्पत्ति की बाबत अनैतिक

गैरकानूनी एवं बिना आधार के समझा जायें।

§2§- एक एकता मकान निचली एवं ऊपरी मंजिल का जिसका क्षेत्रफल

लगभग 400 वर्ग फुट है और यह मकान लगभग 1/2 बीघा ऊँचका जमीन

में बना है जिसमें कि 4 पेड़ सन्तरे के भी लगे हैं।

§3§- एक गोशाला निचली एवं ऊपरी मंजिल की जिसकी क्षेत्रफल लगभग

300 वर्ग फुट है व जिसके साथ लगे हुए तीन खेत है जिसका क्षेत्रफल लगभग

3 बीघा ऊँचका है।

§4§ - तेलवाड़ा मला में तीन खेत है जिनका क्षेत्रफल लगभग 3 बीघा

ऊँचका है।

§5§- पवाटों में तीन खेत है जिनका क्षेत्रफल लगभग 3 बीघा ऊँचका

है।

§6§- सगुनी में एक खेत है जिसका क्षेत्रफल लगभग 1 बीघा ऊँचका है।

§7§- बेडुयारा में एक खेत है जिसका क्षेत्रफल लगभग 1 बीघा ऊँचका

है।

४१४- तैलवाड़ा तल्ला में चार छेत है जिसका क्षेत्रफल लगभग ४ बीघा कच्चा है।

१०१- बदामाणा गाड में तीन छेत है जिनका एकफल लगभग ३ बीघा
 एकट्ठा है।

१।१- तल्लापदेरा में एक छेत है जिसका फल लाभ । बिया कटवा

४।२४- मुझे उपरोक्त अवल सम्पत्ति जिसमें मकान एवं जमीन शामिल

है मुझे पात स्वर्गाधि श्री धर्मानन्द गौनपाल को मृत्यु के बाद मेरे हात्से में आपसी समझौते के बाद में मिली है। इस सम्पत्ति का कुछ भाग मेरे पातकी छानदानी सम्पत्ति है। जो उन्हें अपने पिता, दाता, एवं परदादा की मृत्यु के बाद मिली थी व कुछ उनकी अपनी खरीदी हुई सम्पत्ति है।

उ:- मेरे पीत की पहली पत्नी श्रीमती शंकरा देवी की मृत्यु के बाद उससे उत्पन्न एक मात्र पुत्र स्वर्गाधि ध्वजय की उसका आधा हिस्सा मेरे पीत, स्वर्गाधि श्री धामनिन्द गौनिवाल की कुल पत्न एवं अवल सम्पत्ति में



नि० अ० दाहिना श्रीमती दिम्भा देवी

Primo Gewinn

से मिल चुका है जो मेरी उपरोक्त सम्पत्ति के भिन्न एवं अलग है व इसमें शामिल नहीं है अतः स्वर्गीय धनराज की पत्नी श्रीमती देवा देवी का मेरी इस उपरोक्त सम्पत्ति में कोई हिस्सा या इस पर कोई अधिकार नहीं है।

4:- मेरे पाँच दो भाई थे और उन दोनों भाईयों स्वर्गीय श्री हरिदत्त एवं स्वर्गीय श्री छायाल मणी की मृत्यु हो चुकी है। इन दोनों व्यक्तियों को भी मेरे ससुर स्वर्गीय श्री शिवदत्त की खानदानी सम्पत्ति में से उनका हिस्सा आपसी बटवारे के बाद अलग कर दिया गया था अतः मेरे उपरोक्त सम्पत्ति में इन दोनों के एक मात्र पुत्रों श्री दौलत राम एवं स्वर्गीय श्री ओंकार व स्वर्गीय श्री ओंकार के तीनों पुत्रों का इस सम्पत्ति में कोई अधिकार व हिस्सा नहीं है इनमें से किसी के द्वारा या सबके सम्मिलित रूप से किसी भी वाद विवाद या दावे को अनैतिक, गैर कानूनी एवं बिना अधिकार के समझा जाये।

छ:- यह कि मेरे पुत्र स्वर्गीय श्री गोविन्द राम गौनियाल अपना मृत्यु के समय दिनांक 4-11-87 को रॉयल डेन्मार्क स्टैंडर्ड आरगेनाइजेशन मानक नगर, लखनऊ में आसटेन्ट के पद पर कार्यरत थे इनकी मृत्यु के बाद इनका जी० पी० एफ०, इ०एस०आई०, पेन्शन, इन्सुरेन्स, एवं अन्य धनराशि उपरोक्त दफ्तर में जमा है। उनके आधे हिस्से को मैं

Pranesh Gauriyal

एक मात्र तनहा मालिक एवं स्वामी हूँ व दूसरे हिस्से की तनहा मालिक व स्वामी श्रीमती कौशल्या गौनियाल है। इस पर भी श्रीमती महादेवी का कोई नैतिक व कानूनी अधिकार नहीं है।

ग:- मैं अपनी मृत्यु के बाद अपनी उपरोक्त वल एवं अवल सम्पात्त व मेरे उपरोक्त मकानों में जो भी सामान, वस्ति इत्यादि है उसका तथा मेरे नाम पर स्वर्गीय श्री गोविन्द राम गौनियाल की मृत्यु की बाबत आर० डी० एस्० ओ० लखनऊ से दिये जाने वाले धन का एक मात्र मालिक, स्वामी एवं उत्तरदायी अपनी उपरोक्त बहु श्रीमती कौशल्या गौनियाल उम्र लगभग 42 वर्ष पत्नी स्वर्गीय श्री गोविन्द राम गौनियालकी निवासी मकान नम्बर 36/3 आर० डी० एस्० ओ० कालोनी, गानक नगर लखनऊ 226011 को बसाती हूँ और यह अधिकार भी देता हूँ कि उपरोक्त श्रीमती कौशल्या गौनियाल जिस प्रकार भी चाहे इस सम्पात्त का उपयोग एवं उपभोग कर सकती है। मैं इस वसीयत नामे के द्वारा यह घोषणा करती हूँ और विधायक भी देती हूँ कि मेरी मृत्यु के बाद उपरोक्त वल एवं अवल सम्पात्त उपरोक्त श्रीमती कौशल्या गौनियाल के नाम दिया जाता है। उवाला के कर दी जायें। और अगर कोई अन्य व्यक्ति इस वल एवं अवल सम्पात्त पर किसी प्रकार का अधिकार, दावा या वाद विवाद उठाकरे

नि० अ० दाहिना
श्रीमती महादेवी

Bramos Gauriyal

Pramod Gawniyal

पर लिखा है व इस वसीयत नामों के टाइप होने के बाद उनको लखन
गवाहान पढ़कर सुनाया है जिस पर अपनी छुपी से राजी होने पर हो

श्रीमती दिक्का देवी ने अपने दाहिने हाथ का अंगूठा इन दोनों गवाहों

के समक्ष इस वसीयत नामों पर लगाकर इसे आज दिनांक 22 फरवरी

1988 को लखनऊ में तसदीक किया है।

नोट:- पेज नम्बर 10 की पन्द्रहवीं लाइन में पत्नी स्वर्गीय श्री धर्मानन्द
गौनियाल है।

लखनऊ, दिनांक:- 22 फरवरी 1988 ✓

निशाना अंगूठा

नि० अ० दाहिना
श्रीमती दिक्का देवी

॥ श्रीमती दिक्का देवी ॥
पत्नी स्वर्गीय श्री
धर्मानन्द गौनियाल,

गवाह नम्बर 1:- श्री कान्त सुन्दरियाल
पता:- स्वर्गीय श्री एम० एन० सुन्दरियाल
सी-114, इन्दरा नगर लखनऊ।

गवाह नम्बर 2:- दया राम पौड्याल,

पता:- पुत्र स्वर्गीय नरायण दत्त पौड्याल,
अजयपुर कला, देहरादून।

टाइप कर्ता

कुलदीप कुमार तक्षेना

कुलदीप कुमार तक्षेना ॥
सिवल कोर्ट,
लखनऊ।

मसौदा कर्ता

GAhannauf

॥ सुभाष चन्द्र धर्माना ॥
एडवोकेट

सी-1050, अरावली मार्ग,

इन्दरा नगर, लखनऊ-226016

Premat Gauriyal

IN THE COURT OF THE 1 ADDITIONAL DISTRICT JUDGE,
LUCKNOW.

Present:-Sri V.P. Mathur,
Addl. District Judge,

C206

Reg.Civil Appeal No.4 of 74

Union of India Apellant.

Versus.

Shri Durga Charan Respondent.

Copy of J U D G M E N T

This is an appeal- against the judgment and decree passed on 29.8.73 by Sri S.C.Shukla, the then Civil Judge Mohanlalganj at Lucknow, whereby he has decreed the suit of Sri Durga Charan against the Union of India for a sum of Rs.2566.38 with proportionate costs. The suit was numbered as Reg. Suit No.44 of 68.

It was a suit for declaration that the orders of the plaintiff's transfer to Allahabad and Fundla were illegal and ultra vires to the powers of the authorities. The plaintiff further claimed a decree for Rs.2566.38 as arrears of salary, allowances and in the alternative as damages for the loss of pay and allowances for the period 1.7.63 to 31.8.66.

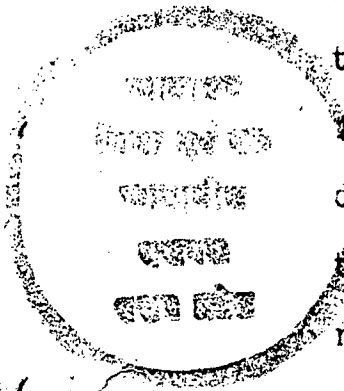
The learned Civil Judge dismissed the suit for the declaration and decreed it for the recovery of Rs.2566.38.

The Union of India presses only one point in this appeal and it is about the jurisdiction. The point is agitated in two ways. Firstly it is contended that the case was covered by Session 22 of the payment of Wages Act and therefore the jurisdiction of the Civil Courts was barred.

C207

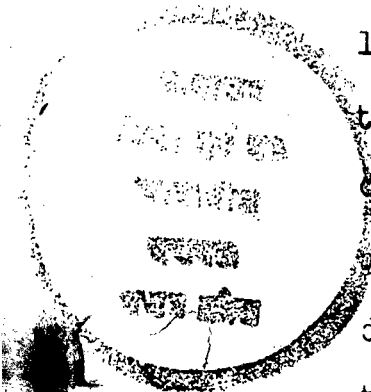
Secondly it is contended that even if the civil suit could be in order, the courts at Lucknow had no jurisdiction to try the same.

Section 22 of the payment of Wages Act, clearly bars any suit for recovery of wages or any deduction from wages. There could be no suit for non-payment of salary and increment for the period during which the respondent was on duty as it will be actually covered by the provisions of Section 22 of the payment of Wages Act. But the question is whether the whole suit was triable by the Prescribed Authority or the court under section 15 of the payment of Wages Act. I am afraid, the finding. will be in the negative. The suit is not merely for recovery of Wages but it was also for declaration and the declaration could not be allowed by the Prescribed Authority. It is true that the basis for this declaration was the alleged illegal transfer and the Hon'ble High Court while deciding the writ petition No. 141 of 62, had held that the transfers were for administrative reasons and did not involve any penalty. But even with that finding, the plaintiff filed, the present suit for a declaration that the transfer orders were illegal and beyond the authority of the Officers passing the same. It is a different matter that on the basis of the writ petition, and other circumstances of the case, the learned Civil Judge, did not find it worthwhile to allow a relief of declaration to the plaintiff, but it cannot be said that because the plaintiff added a relief which he could not get, therefore that relief should be ignored and the case should be held



within the jurisdiction of the Prescribed Authority under the Payment of wages Act. The frame of the suit is to determine the forum and in the present case in view of the relief of declaration claimed, forum was with the civil Courts. C208

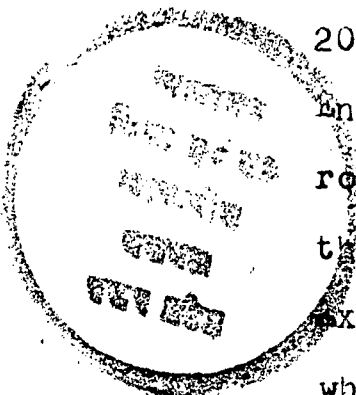
Coming to the question of the territorial jurisdiction, the claim of arrears of salary and increment is for the period 1.7.63 to 31.8.66. The suit has been filed against Union of India. The transfer order was served on the opposite party at Lucknow. The order of the transfer from Allahabad to Tundla was also served at Lucknow. Therefore in any view of the matter part of the cause of action did atleast arise in Lucknow and so the suit was rightly taken cognizance of by the learned Civil Judge at Lucknow.



There is no challenge to the finding of the learned Civil Judge on merits and it is conceded that if the plaintiff's suit is found to be in order the claim has been rightly allowed. The amount in question was never paid. There is no dispute, however, that if the plaintiff is deemed to have been on duty for this period, he was entitled to this amount. The plaintiff was transferred from Lucknow to Allahabad Division, The contention of the plaintiff is that he went to Allahabad under protest and tried to take over charge there but since there was no such post on which he has transferred, he was not allowed to take over charge. On 13.11.1961 he sought an interview with the Divisional Electrical Engineer

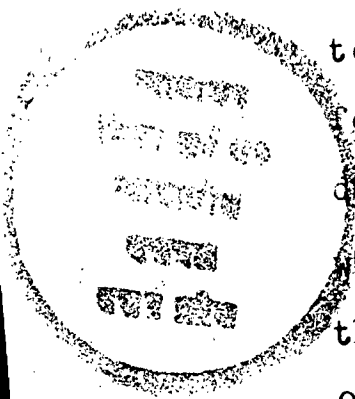
and the A.P.O. at Allahabad for resumption of his duty but they did not help him. Exhibit 121 proves that he sought an interview with the Divisional Electrical Engineer on 13.11.61. On 28.12.61 the Plaintiff had an interview with the Workshop Executive Engineer Lucknow and explained his difficulty to him in as much as he was neither given any work at Lucknow nor was being allowed to take over at Allahabad. The Workshop Executive Engineer, however, told the plaintiff that he was unable to do anything. Exhibit 127 shows that the plaintiff did seek an interview with the Workshop Executive Engineer on 28.12.61. It is further contended that on 20.3.62 the plaintiff again applied to the same officer for orders regarding resumption of duty by him. Nothing was done. Exhibit 131 shows that the plaintiff's application dated 20.3.62 was duly considered by the Workshop Electrical Engineer and he was told that he was actually on the rolls of Divisional Superintendent Allahabad and therefore he could not be allowed to work at Lucknow. Exhibit 132 is plaintiff's letter dated 14.4.62 through which he insisted that he was still on the rolls at Lucknow and that the original transfer order to Allahabad may be given to him. A similar request was made on 18.4.62 vide Ext. 137. Subsequently Ext. 144 will show that the plaintiff was ultimately transferred to Tundla as a Fitter. This order was issued by the A.P.O. Allahabad and is dated 6.8.62. On 11.11.63 vide Ext. 159 the plaintiff addressed the Divisional Superintendent (Electrical) Northern Railway Allahabad to ascertain his position on the

C2d9



rolls of his staff. A similar letter was written to the Divisional Superintendent Northern Railway Allahabad on 11.11.63 vide Ext. 100. On 12.3.64, the plaintiff addressed the Workshop Electrical Engineer, Lucknow vide Ext. 169, after the judgement of the writ petition had been delivered, drawing the attention of that authority towards his transfer order and informing him that the Office Order Dated 16.3.61 had been issued to him inspite of his previous applications and he requested that he may be issued a transfer pass so that he may join at Allahabad. Exhibit 175 dated 30.3.64 shows that the plaintiff then went to Allahabad and requested the Divisional Superintendent Electrical for permission to resume the duty under his control. He was however, not permitted to do so. On 19.4.64 he sent telegram Ex. 181 to the same officer seeking interview for purposes of the talks regarding resumption of his duty. There is nothing on the record to show as to what action was taken on his telegram but it appears that on 4.4.64 before the telegram had been sent, an order of his transfer to Tundla was passed. This notice is Ex.190. Exhibit 203 shows that even at Tundla he was not given charge and he sent a telegram to the Divisional Superintendent Tundla drawing his attention to these facts and further clarifying that from 6-5-64 although he was attending the office regularly no charge was given. A similar complaint Ex.208 was made to the Electrical Chargeman on 27.6.64. Exhibit 228 shows that after all this gruelling experience and inconvenience, the plaintiff was ultimately allowed to

C210



take over charge. All these facts clearly show that inspite of the fact that the plaintiff was pursuing against his ^{Civil} transfer first to Allahabad and then to Tundla, he was all along making efforts to take charge of his new assignment at both the places and on one pretext or the other his attempts were being constantly thwarted. He was even being prohibited from taking over charge. During this period he was neither suspended nor put to any disciplinary action. No orders appear to have been made directing deduction from his salary and allowances or refusing him any increment. There being nothing like this, there has been no question or justification for withholding his salary allowances and increments. The appellant could withhold this payment only after a proper inquiry and valid order and in accordance with the rules. Since this was not done, it cannot now be said that the plaintiff - respondent cannot claim his salary allowances and increments for the period in question. Admittedly these sums have not been paid to the plaintiff. Under these circumstances the suit was rightly decreed.

The learned counsel for the appellant also said that the suit was barred by limitation. The suit was filed on 13-9-66. The plaintiff claimed relief No.2 about money on the allegations that this amount was due to him for the period 1-7-63 to 31-8-66. If we add the period of notice, under section 80 of the Code of Civil procedure the suit is clearly within time.

In the result, I do not find any force in this appeal which is hereby dismissed with costs.

1-8-74
Sd/- (V. P. Mathur)
1 Addl. District Judge, Lucknow

Judgement signed, dated and pronounced in the open court today the 1st of August 1974.

1-8-74
Sd/ (V.P. Mathur,)
1 Addl. District Judge, Lucknow.

प्रतिनिधि
1-8-74
प्रमाण प्रतिनिधि
जिसका यह सच व्यापारिक
संकेत

Compared by - *unintelligible*

1461

अनसूची



के अजीन प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

क साधारण सेवा कार्य-पत्र में

982) सेवा कार्य-पत्र में

10-1600 रु. चयन

संगू नहीं होता

NEW DELHI SATURDAY JULY 3, 1982/ASADHA 12, 1904

1. संगू नहीं होता

होता

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा विधि के अन्तर्गत बनाए और जारी किए गए साधारण नियम जिनमें साधारण प्रकार के आदेश, उपनियम आदि सम्मिलित हैं।

General Statutory Rules (including orders, bye-laws etc. of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Central Authorities (other than the Administrations of Union Territories)

MINISTRY OF LAW, JUSTICE AND COMPANY
AFFAIRS

(Department of Company Affairs)

New Delhi, the 17th June, 1982

<p>10</p> <p>नहीं होता</p>	<p>11</p> <p>(कम्पनी कानून विभाग)</p> <p>नई दिल्ली, 17 जून, 1982</p> <p>प्रतिनियुक्ति पर स्थानान्तरण द्वारा</p> <p>सां.कां.निं. 576</p> <p>द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए, केन्द्रीय कम्पनी विधि सेवा नियम, 1965 के (1) से सम्बंधित करने के लिए, निम्नलिखित नियम बनाते हैं, अर्थात्:—</p> <p>(ii) जिन्होंने 700-1300 रु०</p> <p>1. (1) इन नियमों के अन्तर्गत केन्द्रीय कम्पनी विधि सेवा (संशोधन) नियम, 1982 के अन्तर्गत 5 वर्ष सेवा की है; और</p> <p>(2) वे राज्य में प्रकाशन की तारीख को प्रवृत्त होंगे।</p> <p>(iii) जिन्होंने 650-1200 रु०</p> <p>2. केन्द्रीय कम्पनी विधि सेवा नियम, 1965 के नियम 7 में, उपनियम (1) के परन्तुक में "शिथिल कर दिया जा सकती है" शब्दों के स्थान पर, "अधिकतम पांचवर्षों तक शिथिल की जा सकती है" अन्वय रखे जाएंगे। (ख) जिन्हें विदेशी मुद्रा विनियमन अधिनियम के अन्तर्गत ए-38015/51/81-प्रमाण-II] और विनियमन नियमों के अन्तर्गत के शेष प्रसाद, उप सचिव संबंधी मामलों का प्रभाव है।</p>	<p>12</p> <p>13</p> <p>14</p> <p>New Delhi, the 17th June, 1982</p> <p>किसी अधिकारी का प्रतिनियुक्ति</p> <p>S.R. 576.—In exercise of the powers conferred by the provisions of article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Company Law Service Rules, 1965, namely:—</p> <p>1. (i) These rules may be called "the Central Company Law Service (Amendment) Rules, 1982.</p> <p>(2) They shall come into force on the date of their publication in the Official Gazette.</p> <p>2. In Rule 7 of the Central Company Law Service Rules, 1965, in the proviso to sub-rule (1), for the word "relaxed", the words "relaxed up to a maximum of five years" shall be substituted.</p> <p>IF. No. A-38015/51/81-Adm.-II]</p> <p>KESHAW PRASAD, Dy. Secy.</p> <p>(1449)</p>
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IF. No. A-3801575181-Admin.-H

KESHWAW PRASAD, Dy. Secy.

(प्रतिनियुक्ति की अवधि सामान्यतः 3 वर्ष से अधिक नहीं होगी)

913

candidates belonging to SC/ST if at any stage of selection, the Union Public Service Commission is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

Desirable:

- (i) Sound knowledge of the language of the area concerned
- (ii) Demographic/Statistical training from a recognised institute (e.g. Indian Institute of Population Studies, Chembur, Bombay, Indian Statistical Institute, Calcutta, etc.).

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees	Period of probation if any.	Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made	If a Departmental Promotion Committee exists, what is its composition.	Circumstances in which Union Public Service Commission is to be consulted in making recruitment
9	10	11	✓ 12	13	14
Age: No. Educational qualification : To the extent indicated in column 12	2 years	(i) 75% by promotion, failing which by transfer; on deputation and failing both by direct recruitment (ii) 25% by direct recruitment	Promotion: Investigators and Investigators (Social Studies) with 5 years' service in the respective grades, rendered after appointment thereto on a regular basis and possessing at least degree of a recognised University or equivalent with Statistics/Mathematics/Economics/Commerce/Sociology/Anthropology as a subject. Note 1: The regular service, if any, rendered in the grades of Tabulation Officer, Senior Technical Assistant and Senior Technical Assistant (Social Studies) prior to their merger in the grades of Investigators and Investigators (Social Studies) shall also be counted towards the above qualifying service of 5 years for promotion. Note 2: If an officer is considered for promotion in accordance with the provisions of these rules, all persons senior to him in that grade shall also be considered not withstanding that they may not have rendered the prescribed number of years of regular service in that grade.	1. Group 'A' Departmental Promotion Committee (for considering promotion : (i) Chairman/Member, Union Public Service Commission—Chairman. (ii) Joint Secretary, Ministry of Home Affairs—Members. (iii) Registrar General and Ex-officio Census Commissioner for India—Member. 2. Group 'A' Departmental Promotion Committee (for considering confirmation : (i) Registrar General and Ex-officio Census Commissioner for India—Chairman. (ii) Joint Secretary, Ministry of Home Affairs—Member. Note : The proceedings of the Departmental promotion Committee relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the	Consultation with the Union Public Service Commission necessary while making promotion, direct recruitment, selecting an officer for appointment on deputation and amending/relaxing any of the provisions of these rules.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

In Re:

O.A. No.123 of 1989 (L)

Promod Guniyal	...	Applicant
Versus		
Union of India & Others	...	Respondents

It is most respectfully submitted that Shri A.V.Srivastava, Railway Advocate, based at Allahabad is contesting the above case on behalf of Respondents. He has not come from Allahabad today and is expected to come on 5th February'93. Your Lordship may graciously be pleased to adjourn the above case for 5th February'93.

Lucknow

Dated: 3.2.1993

(S.Bhatia)

On behalf of Respondents

एव निर्देशक स्थापना - १
अनुसंधान अभिकल्प और मानक संगठन,
रेल मंत्रालय, लखनऊ - 226011