

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE ..... 0.A 148/89 OF .....

NAME OF THE PARTIES ..... Cont. Brig. Rani Devi, 0.A 8 .....

..... Applicant

Versus

..... Union of India Govt. .... Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Index sheet	A1 to A2
2	Order sheet	A3 to A6
3	Judgment order dt. 07.8.92	A7 to A11
4	Writ Petitions	A12 to A22
5	Power	A23
6	Writ Pet. statements	A24 to A32
7	Regions des Affidavit	A33 to A42
8	Power	A43 to A44
9	Notices	A45 to
10	C.M. No. 207/89	A46 to A48
11	Any Others papers	A49 to
12		
13		

CERTIFICATE

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

Check on

Dated, 17.1.12

Counter Signed.....

Section Officer / In charge

*m*  
Signature of the  
Dealing Assistant

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal  
Circuit Bench, Lucknow  
Date of filing 27.6.89  
Date of Receipt by Post.....

Registration No. 148 of 1989 (L)

Deputy Registrar (J)

APPLICANT(S) Smt. Brij Ram Devi & others

RESPONDENT(S) Union of India & others

Particulars to be examined	Endorsement as to result of examination
1. Is the appeal competent ?	Yes
2. a) Is the application in the prescribed form ?	Yes
b) Is the application in paper book form ?	Yes
c) Have six complete sets of the application been filed ?	Yes
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time ?	No
c) Has sufficient cause for not making the application in time, been filed ?	Yes
4. Has the document of authorisation Vakalatnama been filed ?	Yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	Yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed ?	Yes
7. a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ?	Yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	Yes
c) Are the documents referred to in (a) above neatly typed in double space ?	Yes
8. Has the index of documents been filed and paginated properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	No

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

dinesh/

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

1/11/89. None appears for the applicant. Shri D.C. Saxena counsel for the respondents files counter reply. Keep it on record. Copy meant for the applicant has also been filed on the ground that the counsel for the applicant is not available. Keep this also on record on the risk of the respondents. The applicant may file rejoinder, if any, within 3 weeks. List this case for orders/hearing as the case may be on 13-1-90.

De  
J.M.

(sns)

OR

No R.A filed  
submitted to  
order

1/11/90

Hon' J.P. Sharma, T.M.

On the request of Shri D.C. Saxena  
for the respondents, the case is  
adjourned to 14-2-90.

De  
J.M.

H.O. Setting Adl 10-4-90

Hon' Mr. D.K. Agrawal, J.M.  
Hon' Mr. P.S. Nabib Mohamed, J.M.

Shri A.K. Dixit, learned counsel  
for the applicant wants adjournment  
on the ground of illness. Shri D.C. Saxena  
for the opp. ps is present.

The case is adjourned to 20/11/90.

for hearing

Ans.

De

J.M. OB

No R.A filed  
S-6-7

5.8.91

Both the Ld. Counsel  
of both the parties  
are present  
rejoinder was not  
been filed so far.  
Prel- up on 9/9/91  
of final hearing  
left the Court  
Bench. R

~~10/8/91 for tele~~  
Note  
to 9/9/91  
De sargent, etc.  
5/8/91 for Umar, etc.

9.9.91

No sitting. Adj. to 17-12-91.

17.12.91

No sitting Adj. to 12-2-92

12.2.92

No sitting adj. to 9.4.92

9.4.92

No sitting adj. to  
22-6-92

~~5/8/92~~  
SATH  
J. P.  
HP

OA 140/91.C

✓

20.5.1991

Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, A.M.

Notice may be sent to the applicant informing him that the case may not be taken up because the application of illness have been received from the counsel. The case shall not be taken on the next date if the counsel is not able to come up which is the applicant to make some other arrangement as the case will not be adjourned on that date. The case is adjourned to 11.7.91 for hearing.

✓

A.M.

✓  
V.C.

(ss)

OR  
Notice issued  
of 51 G.P.A.  
Expt.

11.7.91 No Siting adj to 26.9.91

✓

26.9.91 No Siting adj to 15.10.91

✓

15.10.91 No Siting adj to 20.11.91

✓

20.11.91 No Siting adj to 13.12.91

✓

13.12.91

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

Issue Notice to the parties  
A show cause why the petition  
may not be dismissed. It  
is 20.2.92 for admission  
a hearing.

✓

V.C.

No Siting adj to 16.3.92

✓

OR  
Notice issued  
of 51 G.P.A.  
Expt.  
10/12/91

OA 148/89 L

86

22-6-92

ay

Heel. Mr. J. Shree I. C. Srivastava vs  
Heel. Mr. K. obayya Am.

Sr. A.I.C. Dixit - Learned

Counsel for a applicant. & Sr. B.I.C.  
Shinde for a respondent.

Arguments heard.

Judgment reserved.

2

✓  
A.M.

✓  
V.L.

7-8-93

Heel. Mr. J. Shree I. C. Srivastava vs  
Heel. Mr. K. obayya Am.

Judgment pronounced today  
in the open Court

2

✓  
A.M.

✓  
V.L.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH  
LUCKNOW

O.A. NO 199 (L)

T.A. NO \_\_\_\_\_

Date of Decision \_\_\_\_\_

PETITIONER

Advocate for the Petitioner(s)

V E R S U S

RESPONDENT

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr.

The Hon'ble Mr.

1. Whether Reporter of local papers may be allowed to see the Judgment?
2. To be referred to the reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

3/8/52

CENTRAL ADMINISTRATIVE TRIBUNAL<sup>A</sup> ALLAHABAD BENCH

Original Application No. 148 of 1989(L)

Smt. Brij Rani Devi & Others . . . . . Applicants

Versus

The 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. K. Obayya, A.M.)

In this application filed by the widow and son of Late Gajodhar, the prayer is for payment of retiral benefits and compassionate appointment.

2. According to the applicants late Gajodhar was regular Class IV emoloyee working as Gangman under respondent no. 4 permanent way Inspector in Northern Railway at Shahjahanpur. He was knocked down by running train # 375-UP while on duty, and died on the spot. The authorities <sup>Wife</sup> informed ~~them~~ of the tragedy, but took no steps to pay compensation, Insurance and other entitlements, nor they have offered compassionate appointment. The applicants made representations in this regard but these representations evoked no response from the respondents. The contention of the applicants is that in terms of para 2311 of Railway Establishment Manual, a Casual labour on attaining temporary status, is entitled to all facilities of provident Fund, Gratuity, Passes, Medical benefits, Pension and benefits of other welfare schemes like Group Insurance Scheme etc; and the same should be paid to them.

3. The application is opposed by the respondents and according to them the Late Gajodhar was not

:: 2 ::

a Regular Gangman. He was merely a decasualised casual labour. He was never screened for regular absorption, as such he was not entitled for Insurance Scheme, Provident Fund and other facilities. He also never contributed towards Provident Fund and Insurance Scheme. As such the applicants are not entitled for any retiral benefits as prayed. However, applicant no. 1 Smt. Brij Rani Devi wife of the deceased employee was paid Rs. 300/- on 4.12.1987 for funeral expenses and also ex-gratia amount of Rs. 1000/- on 23.12.1987. It is also stated that the representations of the applicant was rejected on 22.12.1988. Regarding compassionate appointment, it is their stand that such appointments cannot be claimed as statutory right and that in Moradabad Division of Northern Railway, they have a long list of widows and dependents of Regular employees waiting for appointment on compassionate ground since 1982, and these widows of regular employees have preferential claim over the claim of the applicant who is widow/son of the deceased decasualised labour.

4. The applicants have denied in their rejoinder, of receipt of any communication from the Administration dated 23.12.1988 as contained in Annexure C-I and it is also reiterated that the Casual labour is given decasualised labour status only after completion of requisite period of continuous service of 120 days and thus he acquires all

f

Contd.. 3/-

statutory rights and privileges admissible to Temporary Railway Servant.

5. We have heard the counsel for the parties and perused the record. The deceased employee Gajodhar, was a decasualised casual labour. He was not screened for any regular employment and remained a casual labour, till the tragedy struck him. The question in these circumstances is as to what are the entitlements of such an employee in the event of his death; Learned counsel for the applicant referred to circulars of the Railway Board dated 14.10.1980 and also the relevant provisions contained in Railway Establishment Manual. These provisions lay down that a casual labour after having worked for continuous period of 120 days attains the temporary status and the benefits admissible to such employees include, scale of pay, compensatory and local ~~allowance~~ elements, dearness allowances, medical facilities, leave facilities, P.F. facilities and passes facilities, and their service can be terminated only after notice. They are however not treated as part of permanent establishment till regularisation after selection and medical examination. They are however not entitled for pension. Learned counsel for the applicant also referred to para 2311 of the Establishment Code (Annexure A-6). This is about the provident fund and gratuity and the para reads as follows :-

(1) "All temporary railway servants including workshop staff shall subscribe to the fund from the first of the month following that in which they complete one year's service. They except those recruited prior to 16.11.1957 and who have / opted for P.F. benefits, will not be entitled to any Govt. contribution."

The applicants however, has not subscribed to the provident fund as admitted by them and hence they are not eligible for the benefit under this para.

6. Regarding compassionate appointment a reference was made to the circular of Railway Board dated 14.10.89 (annexure R-1). According to the para 5 of this letter it is clearly indicated that wards and dependents of casual labour with temporary status who died in harness are eligible for compassionate appointment and such appointment shall be only in the form of engagement as casual labour or as substitute.

7. Learned counsel for the applicant Shri A.K. Dixit referred to the decision of Calcutta Bench of this Tribunal in 'Smt. Malati Kar and others Vs. Union of India & others' (1992(1) page 543). This case related to casual labourers who had worked ~~from~~ <sup>for</sup> 13 to 18 years and had acquired temporary status. It was held in this case that the applicants were entitled to computation of their temporary service as qualifying service for pensionary benefits and they were also deemed to have been regularised from certain dates. The Tribunal also placed reliance on Railway Board's letter dated 2.3.88. In this case, some of the casual labourers were screened; they were also medically examined for regular appointment. In all these cases, the range of continuous service ranged from 13 to 19 years. In the instant case, before us, there is only assertion that the applicant's husband Gajodhar had only attained temporary status on completion of 120 days. This certainly ~~falls~~ <sup>falls for</sup> short of qualifying service, minimum prescribed for entitlement of pension.

We consider that there is no case for grant of pension to the applicant's husband (Gajodhar) and consequently the question of family pension does not arise. It is also admitted that the applicant's husband never contributed towards provident fund, hence there is no entitlement for grant of pension to the applicant's husband in these circumstances.

8. Regarding compensation for death of applicant's husband in an accident, it is open to the applicant to move representation to the Administration making specific case pointing out the legal position and the respondents will dispose of representation as per law. It is also open to the applicant to move appropriate forum for this purpose.

**MEMBER (A)**

**VICE CHAIRMAN.**

DA TED: AUGUST 25, 1992

(ug)

Central Administrative Tribunal  
Circuit Bench, Lucknow  
Date of Filing 27.6.89  
Date of Receipt by Post.....

FORM - I  
(See Rule 4)

Deputy Registrar(J)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985

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

Claim for appointment on compassionate  
Grounds & Payment of Funds etc. of  
deceased Railway Servant.

Department : N.Railway.  
District : HARDOI.

Smt. Brij Rani Devi and another.....Applicants.

Versus.

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

Compilation No. I

I N D E X

S1. Description of Documents No. relied upon.	Page No.
--	----------

1. Application as compilation no.1	1 to 10
2. Vakalatnama	11
3. Index & Paper Book of Compilation No.2	12

Signature of the applicant,

(Smt. Brij Rani Devi & another)

Through their counsel:-

  
A.K. Dixit  
Advocate

*filed today  
Noted for  
17/7/89  
Smt. Brij Rani Devi*

Dated: June, 1989

Place: Lucknow

For use in Tribunal office.

Date of Filing

or

Date of Receipt by post

Registration No.

Signature  
For Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

L U C K N O W .

CA. No. 148 of 09 (L)

1. Smt. Brij Rani Devi aged about 35 years widow of Late Sri Gajodhar son of Sri Parsadi, resident of Village Samda, Post Khajohana, Tehsil Sandila, District HARDOI.
2. Maikoo Lal aged about 20 years son of Late Sri Gajodhar, village Samda, Post Khajohana, Tehsil Sandila, District HARDOI.

• • • • Applicants.

V e r s u s .

1. Union of India, through Secretary to Department of Railways, Rail Bhawan, NEW DELHI.
2. Divisional Rail Manager, Northern Railway, Moradabad.
3. Assistant Engineer, Northern Railway, Shahjahanpur.
4. Permanent Way Inspector ( Special ) Northern Railway, Shahjahanpur.

• • • • Respondents.

DETAILS OF APPLICATION

1. Particulars of Order against which application is made.

(i) Order No. NIL

(ii) Dated NIL

(iii) Passed by NIL

As no specific order in writing has been passed nor any response to representations of applicants has been made, it is not possible to give reference of any order.

*L T 1*

Present application is moved praying for relief in the nature of Mandamus command or direction to the effect that respondents be directed to consider and accord applicant's claim for appointment on compassionate grounds in place of their husband, father who died on 3.12.87 while serving on duty as a regular Gangman under respondent no.4, and to make payment of his fund, Group Insurance, Family Pension, Funeral expenses etc.etc.

2- Jurisdiction of the Tribunal.

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

3- Limitation.

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

Applicants after death of their husband, father applied for funds, pension etc. and also for appointment on compassionate grounds, but so far not even a single paisa towards fund, funeral expenses, compensation etc. has been paid nor appointment given nor any response has been made with regard to their representations, as such cause of action and limitation is continuing day to day and is recurring.

In any view of the matter cause of action arose only on 4.12.87 i.e. on the next day of death of Sri Gajodhar, application and representation preferred on 23.1.88, 30.11.88, 1.12.88, and 10.6.89 have not been replied, claim would have been filed on 3.6.89 (i.e. one and a half year from 3.12.87) from which date

71 Sub. Amrikam

Hon'ble Tribunal was closed on account of Summer Vacations. To meet this contingency, a separate application, stating and praying grounds and relief for condonation of delay under rule 8(4) is also attached by way of abandon caution.

4- FACTS OF THE CASE :

- 4.1- That applicant no.1 is widow of Late Sri Gajodhar s/o Sri Parsadi and applicant no.2 is his son born from Union of applicant no.1 and Late Sri Gajodhar.
- 4.2- That Late Sri Gajodhar was employed as Regular Gangman under Respondent no.4 i.e. Permanent Way Inspector ( Special ) N.Railway, Shahjahanpur.
- 4.3- That ~~some~~ being a regular class IV employee ( on attaining status of temporary employee ) applicant's husband was entitled and contributing to Railway Employees Insurance Scheme, Provident Fund facilities and other identical welfare schemes/Rules as admissible to other similarly placed employees.
- 4.4- That during the course of his employment and duties Sri Gajodhar having knocked down by TE of 375 Up and died on spot at Km. 1233, 11-12 between Roja Jn. and Shahjahanpur.
- 4.5- That concerned authorities immediately intimated about the tragedy to higher officials and asked for ex-gratia payments to kins of deceased.

( C. S. S. / Amritsar )

X  
6

A true Photo copy of such telegraphic intimation dated 3.12.87 sent by P.W. 1 is attached herewith as Annexure A-1 to this petition.

4.6- That Late Sri Gajodhar left behind him applicant no.1, applicant no.2 ( who was less than 18 years at the time of his death), 4 sons ranging in the age group of 13 to 4 years and one daughter aged about 3 years, total 8 dependents.

4.7- That applicants belong to scheduled caste (Chamar) community of society and have no other source of income and are depending upon casual agriculture village labour.

True Photocopy of Caste Certificate issued by Tahsildar Sandila is attached herewith as Annexure A2 to this petition.

4.8- That applicant no.1 on 23.1.88 submitted an application for her appointment on compassionate grounds in place of her husband supported with an affidavit.

True Photocopy of such affidavit dated 23.1.88 is attached herewith as Annexure A3 to this petition.

4.9- That on 30.11.88/1.12.88 petitioner again submitted an application to respondent no.2 under Registered Postal Receipt No.698.

True Photocopy of duplicate of aforesaid application alongwith Registered Postal Receipt is attached herewith as Annexure A4 to this petition.

LTI Sub. Amrit Rai

4.10- That respondents when neither tendered any reply to applicant's representations nor made payment of even a single paisa either by way of compensation, insurance, fund, ex-gratia or otherwise, nor gave appointment, applicants on 9.6.89 tendered a registered notice on 9,10.6.89 through their counsel.

True Photocopy of such notice alongwith registered Postal Receipts is attached herewith as Annexures A5 to this petition.

4.11- That so far respondents have done nothing and applicants who are surviving on mercy of their relatives have now reached on the edge of starvation.

4.12- That under para 2311 Ch.XXIII of Railway Establishment Manual and according to the policy and different circulars and standing orders of Railway Administration a Casual Labour on attaining temporary status is entitled to all facilities of Provident Fund, Gratuity, possess, medical, pension and benefit of other welfare schemes like Group Insurance Under Railway Employees Insurance Schemes 1977.

A true photocopy of para 2311 Railway Establishment Manual is attached herewith as Annexure A6 to this petition.

Relevant extract of Railway Boards circular No.E(NG) ii-78/CL/12 dated 14.10.80 ER 190/80 ( as published on page 771-772 in ML Jand's Book on Railway Establishment Manual ) is also reproduced below:-

671 Smt. Anjali Rani

"Benefits admissible on getting temporary or status:

They will be entitled to all the rights and privilege admissible to temporary Railway Servants under Ch. XXIII EM viz. Revised scale of pay compensatory and local allowance. D.A. MEDICAL FACILITIES, leave PF facilities, passes, notice for termination of service and Hospital Leave. They will also be entitled to the benefits of D&A Rules. Their service, prior to the date of completion of 120/180 days will not however, count for any purpose like seniority etc. They can carry their leave due to the new post of absorption in regular service. They will however not be brought to permanent establishment till they are selected through regular selection Boards for class IV staff. They will however have a prior claim over others to permanent appointment. Those who join as CL before 25 years of age, may be allowed relaxation of maximum age limit to the extent of their total service.

Half of their service after attainment of temporary status if followed by regular absorption, may count towards pension.

(E(NG) ii-78/CL/12 dt.14.10.80 ER190190) "

4.13- That dependents of Railway Servants who loses his life in the course of duty or die in harness are entitled to be appointed on compassionate grounds vide Railway Boards circular letter No. E(NG) II, 78/CL/I dated 7.8.83 and various other instructions issued from time to time.

4.14- That in order to meet immediate requirements of family of a deceased Railway servant there is provision for making 3 months pay or Rs. 1000.00 to family members.

L T I Smt. Anjali

4.15- That as stated above applicants have not been paid even a single paisa towards any funds nor even the compensation on account of death of Sri Gajodhar.

4.16- That having regard to the circumstances stated above now applicant ~~has~~ been left with no option but to prefer this claim on and amongst other the following :-

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS.

- A- Because applicant has a statutory right to be appointed in place of her deceased husband on compassionate grounds who died in harness.
- B- Because to keep matter of such appointment pending for such a long time leads to arbitrariness.
- C- Because under chapter XXIII Railway Establishment Manual and different administrative direction and orders issued by Railway Administration from time to time petitioner is entitled to receive benefits of Provident Fund, Insurance expenses is to meet immediate requirements and family pension etc.
- D- Because action of respondents is highly arbitrary malafide and unjust.
- E- Because cases of appointment on compassionate grounds should be viewed sympathetically as held by this Hon'ble Tribunal in 1988 UPLBEC 44 Smt. Gayatri Devi Vs. Union of India.

L71 Smt. Anjali

6. Details of remedies exhausted.

The applicant declare~~s~~ that they have availed of ~~th~~ all the remedies available to them under the relevant service rules.

Details of representations and their outcome with reference to number of annexures is given below:-

(i) Application with affidavit	A3
(ii) Application dt.30.11.88, 1.12.88	A4
(iii) Notice dated 9/10.6.89	A5

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

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

8. Reliefs sought :

In view of facts mentioned in para 4 above as well as on grounds and legal provisions in para 5 of the applicant prays for following reliefs :-

(i) a declaration, direction or order in favour of applicants to the effect that they are entitled to receive all consequential monitory benefits accrued to them upon death of Sri Gajodhar like amount of Provident Fund, Insurance, Family pension etc. and appointment on suitable regular post on compassionate grounds. Accordingly respondents be directed,

commanded to appoint applicants on a suitable regular job and in case she is found over age the power of relaxation of upper age limit be exercised, and also to pay them amount of Provident Fund, Insurance, Family Pension, compensations <sup>along with 12% yearly rate of interest over such arrears.</sup>

(ii) Costs of the claim petition and such other reliefs as may be deemed fit and proper in the circumstances of the case be also awarded to the applicant.

9- Interim Relief, if any prayed for.

Having regard to the extremely harsh circumstances, respondents be directed to make ex-gratia payment of atleast Rs.5000.00 to the applicants adjustable in amount of Group Insurance, Provident Fund, Gratuity or in any account.

10- Application is presented through counsel:-

Sri A.K.Dixit, Advocate, 509/28Ka,  
Old Hyderabad, Lucknow.

11- Particulars of Bank Draft,  
Postal Order filed in  
Respect of the application.

Fee.

- 1.No.of Postal order, Bank Draft 10 791649
- 2.Date of Postal order, Bank Draft 27/6/89
- 3.post office/Bank by which issued. G.R.O. Lucknow
- 4.Payable at Post Office, Bank at Allahabad

12- List of enclosures:

- 1.Demand draft,  
postal order.
- 2.Index of compilation no.1
- 3.Paper Book of compilation No.1.

  
Amrikrai

4. Index of compilation no.2.

5. Paper Book of compilation no.2.

6. Vakalatnama.

Applicant

1. Smt. Brijrani Devi

2. Maikoo Lal.



२५८८८८

Verification.

We, Smt. Brijrani Devi & Maikoo Lal widow and son of Late Sri Gajodhar resident of village Samda, Post Harrai, District Hardoi do hereby verify that the contents of paras 1 to 4, 6, 7, 10, 11, and 12 are true to my personal knowledge and paras 5, 8 and 9 are believed to be true on legal advice and that I have not suppressed any material fact.

२५८८८८  
L/T Smt. Brijrani

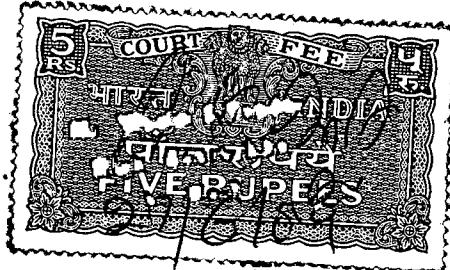
Thumb impression of applicant

Date:

Place: Lucknow.

Smt Brij Ram Devi Seth वक़ालत नामा

Union of India  
soth.



न्यायालय श्रीमान ... Smt. A. K. Dixit Advocate ...

509/20 Ka old Hyderabad

नाम

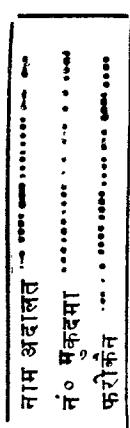
वादी

समृति ... ... ... ... ... ... ... ... ... ... ... ... ... ...

श्रीमान

एडवोकेट

वकील साहब



को व जिन वकील साहब को श्रीमान वकील अपनी ओर से भेजे उनको अपना वकील नियत करके बचन देता हूं और प्रतिज्ञा करता हूं कि उल्लिखित वकील साहब उपरोक्त मुकदमे व अपील व निगरानी में जो कुछ पेरवी या उत्तर प्रयुत्तर करे या दावा व वकील निम्रानी व ब्यान तहरीर दाखिल करें या कोई कागजात या सनद इत्यादि पेश करें या वापस करे या हमारी ओर से इजराय डिगरी करके या रूपया जो हमे मिलने को है वसूल या राज नामा इकबाल दावा हमारी ओर करे या दाखिल करे या प्रतिवादी द्वारा दाखिल किया हुआ रूपया स्वयं अपने हस्ताक्षरों से या हमारी दस्तखत की हुई रसीद लेवे या जिम्मेदारी मुआवजा बाढ़ या पुनर्बास भत्ता एयोटी अर्धवासी या बृद्ध जोतकार एकट आदि के बाँड़ लेवे तथा किसी मुकदमे पक्ष आदि नियत यह सब मय हानि लाभ के जो मिसिल में कार्यवाही करेगे हमें स्वीकार होगा और नियत मेहनताना न मिलने पर वकील साहब को अधिकार होगा कि वह उपरोक्त मुकदमें में अपील या निगरानी पेरवी न करे इस लिए वकालतबासा लिख दिया कि सनद रहे और आवश्यक समय पर काम आवे।

मैक्रूलाल

Accepted  
20/1/66

गवाह

हस्ताक्षर

27/6/84

गवाह

हस्ताक्षर

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
CIRCUIT BENCH, LUCKNOW.

\*\*\*\*\*

Written Statement on behalf of respondents.

In  
Registration Case No. 148(L) of 1989.

Brij Rani and another.....Petitioners.

Versus  
Union of India and others.....Respondents.

Written Statement of S C Saxena

Asstt Engrs  
serving  
as A-EN- N.R., Shahjahanpur  
Northern Railway, Shahjahanpur.

1. That I am serving as A-EN-N.R. Northern Railway Shahjahanpur and have been arrayed as respondent No. 2 in the abovenoted Registration case. I have been deputed to file this Written Statement on behalf of respondents.

2. That I am fully acquainted with the facts stated below.

X (028)  
1/11/89  
Asstt Engrs  
N.R., Shahjahanpur

3. That I have read and understood the contents of the abovenoted registration case and am in a position to give a parawise reply.

4. That the averments made in para 1 of the petition are incorrect and hence denied. It is further stated that specific order has already been passed by respondent No.2 (order dated 22.12.1988).

5. That para 2 of the petition needs no comments.

6. That the averments made in para 3 of the petition are incorrect. It is pertinent to mention that the petitioners' representation was rejected by respondent No.2 as early as 22.12.1988.

7. That para 4.1 of the petition needs no comments.

8. That in reply to para 4.2 of the petition it is stated that the deceased Gajodhar was not a regular Gangman. He was merely D.C.L. Decasualised casual Labour.

9. That in reply to para 4.3 of the petition it is stated that the deceased Gajodhar was never screened. He was merely a D.C.L. Decasualised Labour (In revised Pay Scale) but never absorbed

as a regular and permanent employee. He was not entitled for insurance Scheme, Provident Fund and other facilities. The deceased never contributed towards Provident Fund and Insurance Scheme.

10. That para 4.4. of the petition needs no comments.

11. That the averments made in para 4.5 of the petition need no comments. It is, however clarified that Smt. Brij Rani was paid Rs.300/- on 4.12.1987 for funeral expenses. Ex gratia Amount of Rs.1000/- was also paid to her on 23.12.1987.

12. That para 4.6 of the petition needs no comments.

13. That para 4.7 of the petition needs no comments. It is however pointed out that the respondents have no knowledge about the sources of income of the petitioners.

14. That in reply to para 4.8 of the petition it is pointed out that the petitioners application was duly forwarded <sup>To</sup> the competent authority.

15. That in reply to para 4.9 of the petition it is stated that no application was received in the office

X  
1/1/09 (T-2)  
ABN/SPN

of answering respondent. It is further pointed out that ( as stated in para 6 of this written statement) that the petitioner's representation having been rejected on 22.12.1988, the sending of the alleged representation was wholly misconceived.

16. That in reply to para 4.10 of the petition it is stated that the applicant Brij Rani was paid funeral expenses on 4.12.1987 and exgratia amount of Rs.1000/- was also paid to her on 23.12.1987. It is further stated that the deceased was never absorbed as a regular employee and this being so the petitioners' are not entitled for the ~~abigadd~~ alleged benefits.

17. That in reply to para 4.11 of the petition it is stated that the petitioners' representation has already been rejected by respondent No.2 vide order dated 22.12.1988. A Photostat copy of the said order is filed herewith as Annexure 'I' to this Written Statement.

It is further stated that the respondents have no knowledge about the petitioners' financial hardships if any.

1/1/09  
6-2-5  
AEN/SDM

18. That the averments made in para 4.12 of the petition are not admitted. suitable reply will be given at the time of arguments about the applicability of the para 2311 Chapter XXIII of Railway Establishment Manual. It is further pertinent to mention that the deceased never contributed towards the Provident fund ~~nor he~~ ever applied <sup>for</sup> the same. No deductions were ever made from the deceaseds' pay on account of Insurance Scheme and Provident Fund.

19. That the contents of para 4.13 of the petition are not admitted. It is further submitted that the policy for making appointments on compassionate grounds exists but such appointments cannot be claimed as a statutory right. It is relevant to mention that the Moradabad Division of Northern Railway has a long list of widows of regular employees waiting for appointment on compassionate grounds since 1982. The widows of regular employees have better and preferential claim for appointment on Compassionate grounds. The present petitioner being the widow/son of deceased ~~Decasualised~~ Casual Labour, have no claim for appointment till widows of regular employees are accommodated.

1/11/89  
ABN/SPN

20. That in reply to para 4.14 and 4.15 of the petition it is stated that the applicant was duly paid Rs.300/- to meet funeral expenses and ex-gratia amount of Rs.1000/- has also been paid to her.

21. That para 4.16 of the petition is not admitted.

22. That para 5 of the petition is not admitted. None of the grounds taken are tenable.

23. That in reply to para 6 of the petition it is stated that the petitioners representation was rejected by Respondent No.2 vide order dated 22.12.1988 (Annexure '1' to this Written Statement). The petitioners have, however suppressed this important and material fact with ulterior motive. The petition is liable to be dismissed on this ground alone.

24. That para 7 of the petition needs no reply.

25. That para 8 of the petition is not admitted. The petitioners are not entitled for any of the reliefs prayed for.

26. That para 9 of the petition is emphatically denied. No case whatsoever is made out for granting any interim relief.

X  
4/4/89  
R. A. M. S. D. N.

27. That there being no compliance of Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987, the petition as framed is not legally maintainable.

28. That the petitioners have sought. Several reliefs in one petition which is not permissible in view of the provisions laid down in Rule 10 of Central Administrative (Procedure) Rules, 1987. The petition as framed is therefore not legally maintainable.

29. That as stated above the petitioners are guilty of concealment and suppression of material facts and this being so the petitioners conduct ~~have~~ <sup>has</sup> further disentitled them for getting any relief and for which they are not entitled even otherwise.

30. That the petition has no merits and is liable to be dismissed.

X 14/09/2013  
(S.C. Saxena)  
Asstt. Engineer  
N.A.Y. Shalimarbagh

I, S. C. Saxena, serving  
as Asstt. Engineer Northern Railway, Shahjahanpur  
do hereby reply that the contents of paras 1, 2, and 3  
of this written statement are true to my personal  
knowledge, paras 4 to 17, 18 (partly), 19 (partly),  
20, 21, 23(Partly), 24, 29(Partly), are verified  
from record, paras, 18(partly), 19(partly) 22, 23(Partly)  
25 to 30 are verified from legal advice.

Place: Lucknow

11/109 (bmk)  
S. C. Saxena

Dated: 1.11.1988

ABN(SPN)

Read  
Answer  
187 x 185

## Annexe I //

4/39

9

नेत्र वेद

Legal

ਫਿਲੈ ਫਿਲੈ ਫਿਲੈ 405(ਸੀ ਅ)

Find 22-12-88

Smt. Bij Ram  
W/o. Gajodhar

Vill: Samodha; P.O: Khejochha.

Dish = *Handoi*; Sandi = *La*

गुरुदास

## ଗେଲେ ଏଲ ପ୍ରସରିତ କାର୍ଯ୍ୟ

जहांकुपा के आवार पर लिखा देख भावके अनियन्त्र वर विचार किया गया । ऐसे हैं कि नियन्त्रणरिति विज्ञानिकर कारणों से हेस्ट्रीकार्य नहीं किया जा सकता ।

१२४

True Copy

એટાન્ફ - આનુષ્ઠાની.પી.ડા.ઇ એચ :-

Y/11/09 (7-128)  
(S. C. Saxena)  
AEN/SPN

એવાંખે એનું કોઈ હો

$$E_7 - \overline{C_{11}} \cdot \overline{S_1} = \overline{H_1}$$

gem

9

22/12. 07

२८ अक्टूबर १९८५

Main Copy

Before Central Administrative Tribunal,  
Lucknow Bench: Lucknow

O. A. No. 148-89(L)

REJOIN-DEP      AFFIDAVIT

Smt. Brij Rani Devi - - - - . . . . . Applicant  
Vs.  
Union of India & others - - - - . . . . . Respondent

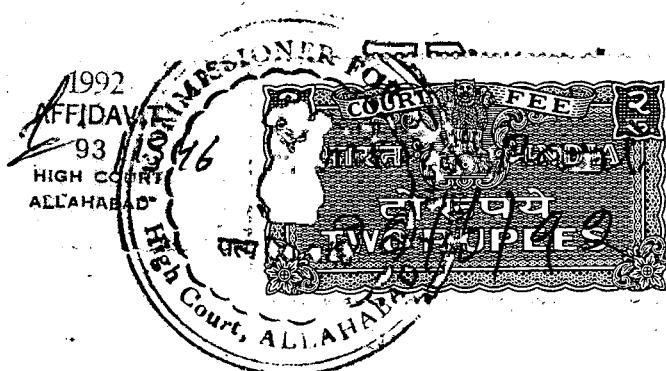
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW.

Rejoinder Affidavit on behalf of Petitioners

Inre

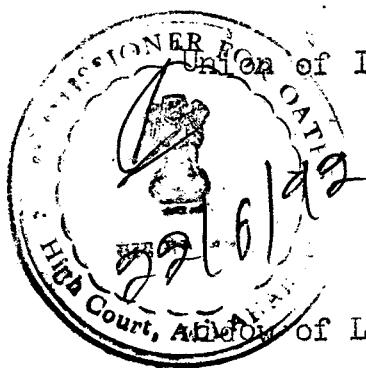
O A No. 148 - 89(L)



Smt. Brij Rani Devi and another

... Applicants.

Versus.



Union of India & oths.

... Respondents.

A F F I D A V I T

I, Smt. Brij Rani Devi aged about 37 years, widow of Late Sri Gajodh-ar resident of Village Samda, Post Khajohna, Tehsil Sandila, Distt. HARDOI, do hereby solemnly affirm and state on oath as under as under in the name of Almighty God:-

1- That deponent being petitioner No. 1 and mother of petitioner No. 2 is fully conversant with the facts of case. She having got read and understood the written statement filed by respondents, submits this reply for her self as well as on behalf of her son petitioner No. 2.

2- That contents of paras 1 and 2 of written statement need no reply.

3- That contents of para 3 of written statement

need no reply.

4- That contents of para 4 of written statement are denied. It is specifically stated that deponent never received any such order Dt. 22.12.88 as contained in Annexure C 1, had she received the same there was no reason or justification for not disclosing it neither there can be any use to deponent for not disclosing the same.

5- That contents of para 5 of written statement need no reply.

6- That contents of para 6 are denied and facts already stated in para 4 above are reiterated.

7- That contents of para 7 of written statement need no reply.

8- That contents of para 8 of written statement are not admitted as written. A casual labour is given status of Decsualised La-bour only after completion of requisite period of continuous working of 120 days and is to be treated as Temporary, thus he acquires all statutory rights and p-revilages admissible to Temporary Railway Servant

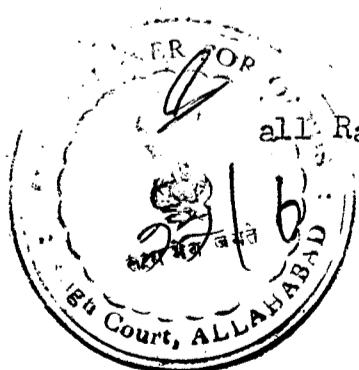
In any view of the matter deponent's husband after having completed requisite working period had acquired status of Temporary Railway Servant and was entitled to all the rights a-nd privileges admissible to Temporary Railway Servant under chapter XXIII of Railway Establish-ment Manual. In this regard reference may be made to following extract of Railway Board circula-r No. E(NG) II-78/CL/12, dated 14.10.80 ER 190180 as published on page 771 and 772 of Railways Establishment Man-nual by Sri M L J and 1985-86 Edition.

✓/65

"**BENEFITS ADMISSIBLE ON GETTING TEMPORARY STATUS:** They will be entitled to all the rights and privilege admissible to temporary Rly. servants under Ch. XXIII EM viz., Revised Scale of Pay, Compensatory and local allowance, DA, medical facilities leave, PF facilities Passes, Notice for termination of service and Hospital leave. They will also be entitled to the ~~to the~~ benefits of D & A Rules. Their service, prior to the date of completion of 120/180 days will not, however, count for any purpose like seniority etc. They can carry their leave due to the new post of absorption in regular service. They will however not be brought to permanent establishment till they are selected through regular selection Boards for class IV staff. They will however have a prior claim over others to permanent appointment. Those who join as CL before 25 years of age, may be allowed relaxation of maximum age limit to the extent of their total service.

Half of their service after attainment of temporary status if followed by regular absorption, may count towards pension.

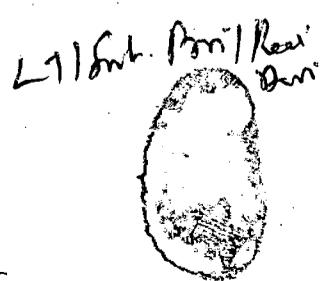
(E(NG)ii-78/CL/12 dt. 14.10.80, ER 190180)."



State Railway Provident Fund Rules apply to all Railway Servants except,

(i) employees taken over from the ex-Company Railways who have not opted for C P C Leave Rules and C P C scales of pay.

(ii) non-pensionable employees taken over from the ex-states Railways who opted to be governed by the ex-States Railways scales of pay applicable to them and on promotion also elected to retain



ex-States Railways scale of pay and

(iii) pensionable railway servants of ex-States Railways with more than three years' service at the time of taking over.

Therefore if Railway Administration has omitted to deduct the Provident Fund or not allotted P F number the dependent of deceased Railway servant cannot be made to suffer for fault of administration.

9- That in reply to contents of para 9 of W S it is submitted that reply is evasive. In any view of matter the fact that concerned authorities by means of Annexure A 1 intimated about the accident to higher authorities remains unchallenged. Decased having completed much more than 120 days continuous working had acquired status of Temporary employee and had become entitled to all rights and privileges admissible to Temporary Railway servants. The benefit of welfare schemes has to be extended to all employees who sacrifice their lives on duty.

10- That contents of para 10 of W S need no reply.

11- That contents of para 11 of W S call for no comments.

12- That contents of para 12 of W S need no comments.

13- That contents of para 13 of W S need no comment except that deponent re-iterates that she is depending only upon meager income as casual agriculture labour.

L T Sambhaji Rao

✓✓

14- That in reply to para 14 of WS it is submitted that concerned authorities have not considered deponents prayer in a proper and legal manner.

15- That regarding contents of para 15 of WS it is submitter that in view of facts stated in para 14 of WS when deponents application was admitedly forwarded then it is absolutely false to say that no such application was received.

16- That in reply to contents of para 16 of WS it is submitted that according to rule 1322-R1 the funeral expences are pa-yable only to those persons who are subscribes of P F Scheme-as such there can be no reason to grant a part of benifit and to deny the other part. The state Railway Provident Fund Rules apply to all Railway servants (except to certain specified categories in which Decasualised labour n-not included). Under State Railway Provident Fund Rules the Subscription is compulsory. Therefore if subscription h-as not been deducted from emoluments of deponents deceased husba-and the fault lies with the Railway Administration.

The relevent rule 1322-R1 (as printed on page 811 of Jand's Railway Establishment Manual 1985 Ed) is reproduced below.

  
"Final withdrawal/ Funeral expenses and other immediate of the family of a deceased subscribers:- When the representatives of a decea-sed subscriber have been left in indigent circumstances as adva-nce not exceeding three month's pay or Rs. 1000 whichever is less ma-y be made by the a-uthority specified in Rule 1320 to meet funeral and incidental expenses of the subscriber or other immediate requirements of the family of the deceased subscriber if it is certified tha-t the amount advanced can be recovered.

L1/Smt M. P. Kew



P/S

at the time of payment of the fund money or otherwise. The advance should, as far as possible, be granted to the person/persons eligible to receive the Provident Fund money in terms of Rule 1340 and should be limited to the share of the person concerned. (Rule 1322 R-1).

17- That contents of para 17 of WS are not admitted, as already submitted deponent never received order Dt. 22.12.88, had she received the same she must have mentioned it in her notice (Anx.A 5) and the department too would have taken the trouble to tender reply of notice by mentioning this fact.

18- That contents of para 18 of WS are not admitted as written. It is submitted that deponent's husband Late Sri Gajodhar after completion of more than 120 days continuous working has to be treated as "Temporary Railway Servant" under para 2501 of Railway Establishment Manual. Such status is conferred by operation of law but if Railway Administration has treated him a "Decasualised Labour" (which term is unknown in Railway Establishment Manual) then he can not be denied with facilities/benefits for which he is not at fault.

Therefore all the benefits which are admissible to Temporary Railway Servants like Provident Fund, Insurance, Family Pension, compensation under Workmen's compensation Act are bound to be extended to such employees.

That contents of para 19 of WS are not admitted as written. Apart from other circulars and policy over the topic, the Railway Board vide its circular No. E (NG) II/84/CL-28 Dt. 31.12.86 (true copy of which is attached herewith as Annexure R 1) has extended the benefit of Appointment on compassionate Grounds towards dependents of even casual Labour (through deponent's husband

1) Subj. Brij Kumar



had acquired status of Temporary employee).

In an identical case of decasualised Labour (O A No. 59 of 1989) this Hon'ble Tribunal that cases of compassionate appointment to dependents of Regular Employees stand on a different footing from the cases of decasualised labour, therefore the plea of Railway Administration to the effect that there is a long waiting list for appointment on compassionate grounds was not accepted and it was not accepted and it was ordered that Railway Administration will consider applicant's claim for appointment on compassionate grounds and for payment of appropriate compensation within a period of six months.

20- That contents of para 20 of WS need no reply.

21- That contents of para 21 of WS are not admitted.

22- Para 22 not printed in WS.

23- That contents of para 23 of WS are not admitted, position has already been explained in paras 4 and 17 above, which is re-iterated.

24- That contents of para 24 of WS need no reply.

25- That contents of para 25 of WS are denied.

Deponent is entitled to the reliefs prayed.

26- That contents of para 26 of WS are denied.

27- That contents of para 27 of WS are denied. Proper application under Rule 4(5) of C A T Procedere Rules has already been moved at the time of presentation of claim.

28- That contents of para 28 are denied. The reliefs as prayed by the applicants are interconnected

and consequential.

29-and-30- That contents of paras 29 and 30 of written statement are denied. Since undisputed position of case is that husband of deponent died on duty and he has not been paid even with compensation which applicants are entitled under statute, they are entitled to the reliefs prayed including interim reliefs.

Deponent

L11 Smt. Brij Devi

22 June 1992.

Smt. Brij Rani Devi.

VERIFICATION

In deponent named above do hereby verify the contents of paras to of this affidavit to be true from my personal knowledge, and contents of paras to are believed to be true by me,. No part of it is false and nothing material has been concealed; so help me God.

Deponent

L11 Smt. Brij Devi

22 June 1992.

Smt. Brij Rani Devi.



I know and identify the deponent who

has signed on this affidavit before me.

A K Dixit.  
Advocate.

on 22/6/92 at 9:50 A.M

Solemnly affirmed before me, by Smt. Brij Rani Devi, deponent who is identified by Sri A K Dixit Advocate, High Court Lucknow Bench, I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been readout and explained by me to him.

S. SINGH  
(Smt. S. SINGH)  
OATH COMMISSIONER  
High Court Allahabad.  
Lokman Dham Lucknow.  
No. 43/12-16  
Date - 22/6/92

OATH COMMISSIONER

IN THE CENTRAL ADMINISTRATIVE THIBUNAL AT ALLAHABAD  
LUCKNOW BENCH : LUCKNOW.

Claim No. 148 - 89(L)

Smt. Brij Rani Devi ..... Petitioner.

Versus

Union of India & oths. ..... Respondents.

Ann. R 1

Circular No: E(NG)/II/84/CL/28, dated 31.12.1986.

Subject:- Appointment on compassionate grounds-Cases of wards of casual labour with temporary status who die in harness.

.....

Attention is invited to this ministry's letter No. E(NG)/II/84/CL/28 dated 4.5.1984, in which the Railway Administrations were advised that General Managers could exercise powers personally to decide requests for appointment on compassionate grounds (as casual labour or substitute), or ward of a dasual labourer who dies due to accident while on duty, provided the casual labour concerned is eligible for compensation under the Workmen's Compensation Act, 1923.

*L. S. S. M. M. M.*  
2. In the PNM meeting with NFIR, the Federation suggested that the benefits of compassionate appointment should be extended to families of casual labour who are on regular scales of pay and who die in harness, in the

✓

same manner as for wards of other railway employees who die during service.

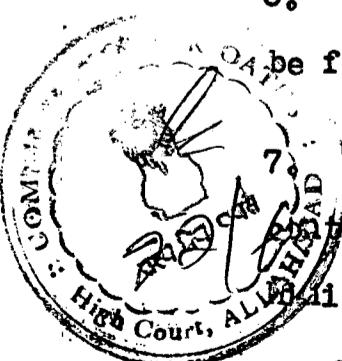
3. During the PNM meeting with NFIR held on 21/22.7.86 it was explained to the Federation that the provisions relating to compassionate appointment in the case of regular employees cannot be extended to casual labour with temporary status. It was added however, that individual cases of extreme hardship can be considered on merits.

4. The matter has been examined further in the light of deliberations in the said PNM meeting.

5. Ministry of Railways have now decided that if a casual labourer with temporary status dies in harness, i.e. during his employment with Railways and if the case presents features constituting extreme hardship, meriting special consideration, the General Manager could exercise his personal discretionary power for giving appointment to eligible and suitable ward of such casual labour on compassionate grounds. Such appointment will be only in the form of engagement as casual labour (fresh case) or as substitute. The Ministry expect this power to be exercised judiciously keeping in view in particular the need to contain the total casual labour force as enjoined in the extent instructions on the subject.

6. The power to make such appointments should not be further delegated to a lower authority.

Cases of death due to accident while on duty will continue to be governed by instructions contained in this Ministry's letter of even number dated 4.5.1984.



Attested this 20/7/86  
S. P. J. S. R.  
M



L.T.I. Smt. Shriji

SPECIAL POWER OF ATTORNEY

Central Administrative Tribunal Allahabad Circuit Bench,  
In the Court of Lucknow  
Regn. No. - 148/1989(L) Plaintiff  
Smt. Brij Rani Devi & others Appellant  
versus Petitioner

Union of India & others

Defendant  
Respondent  
Opposite Party

S. D. Gupta, Devl. Ry. Manager

KNOW all men by these present that I, S. D. Gupta, Devl. Ry. Manager  
Northern Railway, Moradabad do hereby appoint and authorise  
S/ Shri D. C. Saxena, Advocate - - - to appear, plead,  
and act for me jointly or severally in the above noted case  
and to take such steps and proceedings as may be necessary  
for the prosecution and defence of the said matter, as the  
case may be and for the purpose to make sign, verify and  
present all necessary plaint petitions, written statements  
and other documents to compromise the suit admit the claims  
and to lodge and deposit money in court and to receive payment  
from the court of money deposited and to file and withdraw  
documents from court and Generally to set in the premises and  
in all proceedings arising thereout whether by way of execution  
appeal or otherwise or in any manner connected therewith  
as effectually to all intents and purposes as I could act if  
personally present I hereby agree to ratify and confirm what-  
ever shall be lawfully done by virtue of these presents.

In witness whereof I hereinto set my hand this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_.

S. D. Gupta

( S. D. Gupta )

- - - Devl. Ry. Manager - - -  
No. Northern Railway  
Moradabad

Accepted  
D. C. Saxena  
Counsel for Plaintiff  
for respondent  
27.9.1989

XIV

SPECIAL POWER OF ATTORNEY

In the Court of Central Administrative Tribunal  
Addle Circuit bench Lucknow

Regd No 140109(L)

Plaintiff

Appellant

Petitioner

Smt. Brig. Ranjith

Versus

Union of India & others

Defendant

Respondent

Opposite Party

KNOW all men by these present that I S.N. Pandey, DRM/MR

Northern Railway, Moradabad do hereby appoint and authorise

S/Shri B.L. Shukla, Advocate to appear, plead,

and act for me jointly or severally in the above noted case

and to take such steps and proceedings as may be necessary

for the prosecution and defence of the said matter, as the

case may be and for the purpose to make sign, verify and

present all necessary plaint petitions, written statements and

other documents to compromise the suit admit the claims and

to lodge and deposit money in court and to receive payment from

the court of money deposited and to file and withdraw comments

from court and generally to set in the promises and in all

proceedings arising thereout whether by way of execution appeal

or otherwise or in any manner connected therewith as effectually

to all intents and purposes as I could act if personally present

I hereby agree to notify and confirm whatever shall be lawfully

done by virtue of these presents.

In witness whereof I herein set my hand this S.N. Pandey  
day of 19

Accepted  
B. Shukla  
Advocate  
17/11/91

(S.N. Pandey)

Northern Railway  
Divil. Rly. Manager  
Northern Railway  
Moradabad

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW

1682 to 1685 Gandhi Bhawan, Opp. Residency  
Lucknow - 226 001

(Registration No. 100 of 1980)

No. CAT/LKO/Jud/CB/

dated 22.3.2000.

Case No. 1682 Date 22/3/2000 APPLICANT(S)

VERSUS  
Case No. 1683 Date 22/3/2000

RESPONDENT(S)

Please take notice that the applicant above named  
has prescribed an application a copy whereof is enclosed  
herewith which has been registered in this Tribunal and has  
fixed \_\_\_\_\_ day of 1980  
for \_\_\_\_\_

If no appearance is made on your behalf, your  
pleader or by some one duly authorised to Act and plead  
on your behalf in the said application, it will be heard  
and decided in your absence.

Given under my hand and the seal of the Tribunal  
this 22.3.2000 day of 1980.

Dinesh/

For DEPUTY REGISTRAR

Copy of Order

22.3.2000 at the Tribunal

dated 22/3/2000

To Union of India, through Secretary to Com. of Railways,  
Rail Bhawan, New Delhi. 2. Comisssioner Railways, U.P. by  
Examination. 3. Advocate General, U.P. 4. Comptroller.

5. Director of Inspector General, Northern Railway,  
Delhi.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,  
LUCKNOW.

Q.M. 207/109(L)

Smt. Brij Rani Devi & another.....Applicant.

Versus.

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

Application under rule 8(4) Central Adminis-  
-trative Tribunal Procedure Rules for  
Condonation of delay in filing claim petition.

May it please your honour,

On account of facts and circumstances stated in  
the accompanying affidavit, it is expedient and necessary  
in the interest of justice that 3/4 days delay in filing  
claim petition may be condoned.

Wherefore, it is most respectfully prayed that  
delay in filing claim petition from 26th June 1989 to  
onwards may kindly be condoned and claim petition be heard  
and decided on merits.

Applicant.

Smt. ~~Brij Rani Devi~~ Brijranidevi  
& Maikoo Lal.

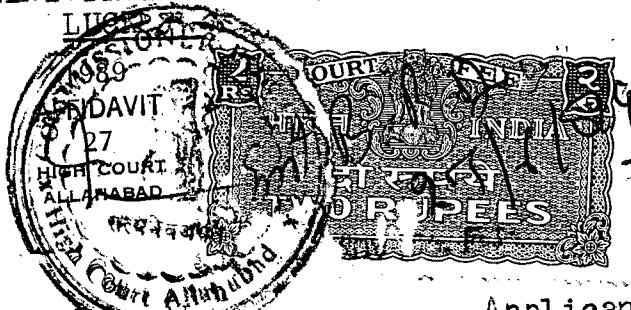
Through their counsel

*Alka*  
A.K.Dixit  
Advocate.

June , 1989.

*L.T. Smt. Alka*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH



Smt. Brij Rani Devi and ~~others~~.....Applicants.

Versus.

Union of India & others.....Respondents.  
C. m. 2001/89(L)

AFFIDAVIT ON BEHALF OF APPLICANT  
IN SUPPORT OF APPLICATION FOR  
CONDONATION OF DELAY.

I, Smt. Brij Rani Devi aged about 35 years ~~widow~~ of Late Sri Gajodhar r/o Village Samda, Post Khajohana, District Hardoi do hereby solemnly affirm & state on oath as under :-

- 1- That deponent consulted her counsel on 9.6.89 who advised her that though cause of action is recurring for filing of present claim petition but it will be more desirable and safe if claim is presented on 26.6.89 i.e. the first opening day of Hon'ble Tribunal and accordingly advised her to come prepared with expenses etc. on 24th or 25th June 1989.
- 2- That deponent who has no source of income at all ~~bare~~ could hardly arrange for ~~their~~ expenses of claim on evening of 26th June 1989 and could contact ~~his~~ her counsel only thereafter who took the next day in preparation of claim.
- 3- That in these circumstances claim petition could not be filed on 26.6.89.
- 4- That in case delay in filing claim petition ~~would~~ is not condoned deponent will have to suffer irreparable loss and injury on account of no ~~xxx~~ fault of her own.

L/T/ Smt. Brij Rani

- Deponent



Verification.

I, deponent named above do hereby verify the contents of paras 1 to 3 of this affidavit to be true from personal knowledge and contents of para 4 are believed to be true by me. No part of it is false and nothing material has been concealed. So help me God.

R.T. I

Deponent

June 27, 1989.

  
(Smt. Brij Rani Devi) Devi

I ~~know~~ know and identify the deponent who has signed on this affidavit (by fixing her LTI) in my presence.

  
(A. K. Dixit)  
Advocate.

Solemnly affirmed before me by Smt. Brijrani Devi deponent on 27.6.89 day of June, 1989 at 11.30 a.m. who is identified by Sri A.K. Dixit, Advocate, Lucknow. I have satisfied by examining the deponent that she understands the contents of this affidavit which have been readout and explained by me to her.

  
Oath Commissioner.

  
OATH COMMISSIONED  
High Court, Allahabad  
Lucknow Bench

No. 35/27/89  
Date 27/6/89

प्रमाण: 720ई/रक्ष ग्रेडिया पेन्चान/88  
दिनांक: २१-९-८८।

मण्डल रेल प्रबन्धक कायालिय  
उ०र०, मुरादाबाद।

मण्डल के समस्त अधिकारी गण  
मण्डल के समस्त अधीनस्थ  
मण्डल के समस्त प्रधार छित सर्व कार्यक्रम  
प्रतिलिपि:- मण्डल सचिव य० आर० सम० य० मुरादाबाद।  
" " " " सन० आर० सम० य० मुरादाबाद।

क्रम संख्या- 9632

पेन्चान क्र० स०-१९/८८

विषय:- अमादायी भक्तिय निधि०ती०पी०सप०४ के अन्तर्गत लेवा निवृत्तो के  
मरणोपरात उनके परिवारों के लिये अनुदान राशि के भुगतान के  
सम्बन्ध में।

रेल मंत्रालय का प्रमाण पी०ती०-४/८७/आई०सम०पी०/। दिनांक ३०-६-८८  
की प्रतिलिपि जो महाप्रबन्धक के प्रमाण ७२०ई/ग्री०/xxxx/।/पेन्चान दिनांक  
१२/१४-७-८८ क्र० स० ९६३२४ के अन्तर्गत इस कायालिय को प्राप्त हुई है, अपने  
अनुलग्नकों सहित सूचना, मार्ग दर्शानि सर्व आव्यायक कार्यवाही हेतु प्रेषित की जा रही  
है। इसमें उल्लिखित ग्री०सम०तंथ्या ४/१/८७-पी संड पी डब्लू०पी आई०सी०  
दिनांक १३-६-८८ की प्रतिलिपि तालग्न की जा रही है।

*K.M.K.*

कृते मण्डल रेल प्रबन्धक

उ०र०, मुरादाबाद।

Copy of C.m(P) MOL's No. 720E/C/xxxx/।/पेन्चान दिनांक १२/४-८८

रेल मंत्रालय से प्राप्त पत्र स० पी०ती०४/८७/आई०सम०पी०/। दिनांक ३०-६-८८ की  
प्रतिलिपि अपने अनुलग्नकों सहित सूचना मार्ग दर्शानि सर्व आव्यायक कार्यवाही हेतु  
प्रेषित की जा रही है। इसमें उल्लिखित ग्री०सम०तंथ्या ४-१-८७ पी संड पी डब्लू०  
पी आई०सी०पी दिनांक १३-६-८८ की प्रतिलिपि तालग्न की जा रही है सर्व  
दिनांक १५-४-८७ की प्रतिलिपि इस कायालिय के पत्र स० ७२०ई/०/xxx/।/पेन्चान  
दिनांक २७-५-८७ पी सं० ९२४। द्वारा भेजी जा चुकी है।

P. T. O.

2. The dearness relief under the revised pattern as sanctioned to pensioners from 1-7-86 onwards vide this Department's OM No. 2/4/87-PIC dated 22-4-87 and subsequent orders will also be admissible to them in addition i.e. at the following rates :-

Periods	Rate per month.
1-1-86 to 30-6-86	Nil.
1-7-86 to 31-12-86	Rs. 6/-
1-1-87 to 30-6-87	" 12/-
1-7-87 to 31-12-87	" 20/-
1-1-88 to until further orders.	" 27/-

Dearness relief as may be granted to pensioners in future shall also be admissible to them.

3. The sanction for ex gratia payment will be subject to the following conditions :-

(1) The ex gratia payment shall be admissible to the following members of the family for the period indicated against each:

(i) widow/widower, provided she/he was married to the Government servant before his retirement. The ex gratia payment shall be tenable in her/his case for life or until he/his re-marriage, whichever is earlier.

**Note:**

Employment/re-employment of the widow/widower will be no bar to her/his entitlement to the ex-gratia payment under these orders. However, dearness relief on the ex gratia payment shall not be payable during the period of employment/re-employment under the Central/State Government or anybody corporate/autonomous body/public sector undertaking belonging to the Central/State Government.

(ii) Sons upto the age of 25 years or until they are employed whichever is earlier.

(iii) Unmarried daughters upto the age of 25 years or until they are employed or their marriage whichever is the earliest.

(2.)

The ex gratia payment shall not be payable to more than one member of the family at the same time. If the deceased C.P.R. beneficiary has left behind a widow or widower the ex gratia payment shall be payable to the widow or widower failing which to the eligible child. Where the sons and unmarried daughters are alive, unmarried daughters shall not be eligible for ex gratia payment until sons become ineligible for grant of ex gratia payment.

(3.)

Where the ex gratia payment is granted under these orders to a minor it shall be payable to the guardian on behalf of the minor.

(4.)

The other provisions of eligibility prescribed for family pension under the CCS (Pension) Rules 1972 though not specifically mentioned above, shall also apply for purpose of regulating grant of ex gratia payment under these orders.

The head of office shall verify the claim with reference to his records. For this purpose, he may, where necessary, also consult the Accounts Officer maintaining the CPF ledger of the deceased employee to ensure that the deceased employee was in fact governed by the CPF Scheme. He will also ensure that duplicate claims for grant of ex gratia payment under these orders are not sanctioned. For this purpose where possible, an endorsement to the effect that the ex gratia payment has been sanctioned shall be recorded in the CPF ledger of the deceased employee. It would be the responsibility of the head of the office or department to determine the beneficiary who would be entitled to receive the ex gratia payment as mentioned in para 1 above. After the head of office has satisfied himself about the nonafide of the claim he shall sanction ex gratia payment and forward the same to the Accounts Officer for issue of payment order. The Accounts Officer means the Accounts Officer who issues pension payment orders in respect of the employees in the respective offices on pensionable establishment.

(d) On receipt of the papers from the head of office the Accounts Officer shall cause the payment authority to be issued. The payment authority should also indicate the amount of dearness relief payable as indicated in para 2 above. The payment authority should follow the same channel through which the pension payment order in respect of pensionable employees is routed. The existing pension payment order form may be used for this purpose.

(e) ex gratia payment under these orders will be payable through disbursing authorities which are at present authorised to disburse pension on behalf of the Central Government, namely, the Accounts Offices, branches of Public Sector Banks, Treasuries and Post Offices as may be applicable for the respective establishments from which the deceased government servant had retired/served last.

(f) In the case of drawal of ex gratia payment through disbursing offices other than Public Sector Banks, the facility of remittance by postal money order at government cost shall also be available.

5. These orders apply to all Civilian Central Government employees including civilians paid from Defence Services Estimates who were governed by CPF Scheme whether under the Contributory Provident Fund Rules (India) 1962 or by any other name. These orders also apply to Railway employees governed by the State Railway Provident Fund Rules.

\*\*\*\*\*

CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW,  
Order No. 143 of 1989 (L)

Smt. Brij Rani Dovi & Others .....  
versus

Union of India & Others .....

Dated: 11.8.1989.

Hon'ble Mr. D.K. Dinkit,

Hon'ble Mr. D.K. Dinkit,

Admit.

Issue notice to respondents to appear within six weeks to which the applicant will file affidavit within two weeks thereafter.

Fix this case on 16.11.1989 for a hearing as the case may be.

As regards interim prayer, issue notice of cause as to why the relief asked for be

Fix on 27.9.1989 for hearing on int

Branch Lucknow

Sd

J.

11

18

Central Bank of India