

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

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

NAME OF THE PARTIES Cont. Brij Rani Devi GoshApplicant

Versus

Union of India Govt.Respondent

Part A, B & C

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11	Any Others Paper	A49 to
12		
13		

CERTIFICATE

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

Dated...17.4.12.....

Counter Signed.....

Section Officer / In charge

Signature of the
Dealing Assistant

This file open
without borth.

Check on

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

APPLICANT(S) Smt. Brij Ram Devid 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 case 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 paging done 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 |

A/2

<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.

Del
J.M.

(sns)

CR

No R.A. filed
submitted to
order

14/1/90

Hon. J.P. Sharma, J.M.

On the request of Sri D.C. Saxena
for the reports, the case is
adjourned to 14.2.90.

Del
J.M.

No. Sitting Adj. 10.4.90

Hon. Mr. D.K. Agrawal, J.M.
Hon. Mr. P.S. Habib Mohammad, 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.

A.M.

Del

J.M. OR

No R.A. filed

S.D.H.

OA 14691.4

8/5

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 ^{may} to make some other arrangement ^{as the case will not be adjourn on that date.} The case is adjourned to 11.7.91 for hearing.

A.M.

V.C.

(ss)

OR
Notice issued
of 5/6/91
[Signature]

11.7.91 No Siting adjn 26.9.91

OR

26.9.91 No Siting adjn to 15.11.91

OR

15.10.91 No Siting adjn 20.11.91

OR

20.11.91 No Siting adjn 13.12.91

OR

13/11/91

Hon Justice U.C.S, VC

Issue notice to the applicant
A show cause and the petition
may not be admitted. It
is 20-2-92 for admission
a hearing.

VZ

OR
Notice was issued
to the applicant.
No answer yet.
Cover has been return
back.

S. P. A

OR
Notice issued
of 11/12/91
10/12

No Siting adjn 16.3.92

22-6-92

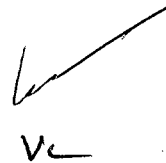
Shri. Mr. Justice B. C. Srinivasan v
Shri. Mr. K. obayya A.M.

Sr. A.C. Dixit - learned
Counsel for applicant, & Sr. B.K.
Shinde for respondent.

Arguments heard.

Judgment reserved.


A.C. Dixit


B.K. Shinde

2

7-8-93

Shri. Mr. Justice B. C. Srinivasan v
Shri. Mr. K. obayya A.M.

Judgment pronounced today
in the open Court.


A.C. Dixit


B.K. Shinde

2

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 Lord ships wish to see the fair copy of the Judgment?
4. Whether to be circulated to other benches?

Vice-Chairman/Member

3/8/52

A/x

CENTRAL ADMINISTRATIVE TRIBUNAL^A 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 employee 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 ^{were} informed ~~then~~ 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 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

Contd...2/-

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:: 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 appointment 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

h

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. The 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."

R

:: 4 ::

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.

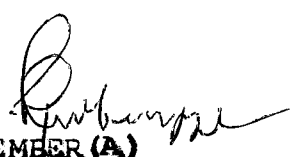
6. Regarding compassionate appointment a reference was made to the circular of Railway Board dated ^{13/12/88} ~~14.10.88~~ (annexure R-1). According to the para 5 of this letter it is clearly indicated that waras and dependents of casual labour with temporary status who died in harness are eligible 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 ^{for} ~~from~~ 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~~ ^{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 far} ~~falls~~ 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.

9. The case of the applicant for compassionate appointment cannot be ruled out. Para 5 of the Railway Board's Letter dated 31.12.86 (Annexure-R.1) clearly lays down that the widow and dependents of casual labourers are eligible for compassionate appointment and such appointment will be only in form of engagement as casual labourer (fresh case) or as substitute. The applicant had preferred an application in this regard which was rejected. The respondents are directed to consider the case of the applicant for compassionate appointment and engage her as casual labourer or ^{as} ~~her~~ substitute as provided under rules. Let it be done within a period of three months from the date of receipt of copy of this order. The application is allowed ^{Partly}. Parties to bear their own costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: AUGUST 27th, 1992

(ug)

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

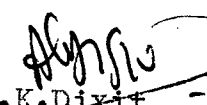
Sl. No.	Description of Documents relied upon.	Page No.
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1.	Application as compilation no.1	1 to 10
2.	Vakalatname	11
3.	Index & Paper Book of Compilation No.2	12

Signature of the applicant,

(Smt.Brij Rani Devi & another)

Through their counsel:-


A.K.Dixit
Advocate

filed today
Noted for
17/7/89
Slamin
DA
Dated: June, 1989

Place: Lucknow

For use in Tribunal office.

Date of Filing

or

Date of Receipt by post

Registration No.

Signature
For Registrar.

8/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH

L U C K N O W.

CA. No. 140 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.

LT/8-1-10/10/10

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, declared that the subject matter of the order against which they wants redressal is within the jurisdiction of the Tribunal.

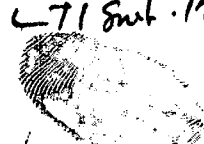
3- Limitation.

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

L71 Smt. Amikuni



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 ~~xxxxxx~~ being a regular class IV employee (onattaining 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 tregedy to higher officials and asked for ex-gratia payments to kins of deceased.

CTI Sul. Amikrai

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 dependends.
- 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 Tehsildar 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.

LT/ Smt. Anj 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 Mannual 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 Scemes 1977.

A true photocopy of para 2311 Railway Establishment Mannual 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 Establishmeent Mannual) is also reproduced below:-

LT1 Sub. Amr/Rw

"Benefits admissible on getting tempy or 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 compensatry 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 129/180 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) 11-78/CL/12 dt.14.10.80 ER190190) "

4.13- That dependends of Railway Servants who loses his life in the course of duty or die in harmass are entitled to be appointed on compassionate grounds vide Railway Boards circular letter No.E(NG)11/78/EC1/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.

LT1 Smt. Anji Kani

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 hareness.
- 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 malefide 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.

LTI Smt. Anjali



6. Details of remedies exhausted.

The applicant declares that they have availed of 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 declares 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 monetary 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 ^{along with 12% yearly rate of interest over such arrears.}
- (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 02 791648
2.Date of Postal order/Bank Draft 27/6/89
3.post office/Bank by which issued. G.P.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.

 *M. J. Rai*

4. Index of compilation no.2.
5. Paper Book of compilation no.2.
6. Vakalatnama.

Applicant

1. Smt. Brijrani Devi

2. Maikoo Lal.

LT / Smt. Brijrani



मैकू लाल

Verification.

We, Smt. Brijrani Devi & Maikoo Lal widow and son of Late Sri Gajodhar resident of village Samda, Post Harrai, District Hardoido 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.

LT / Smt. Brijrani

मैकू लाल

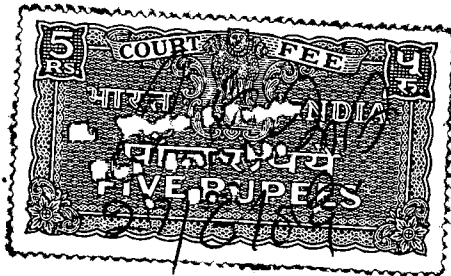
Thumb impression of applicant

Date:

Place: Lucknow.

वकालत नामा
Smt Brj Ram Devi & others.

Union of India
& others.



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

509/20 Ka old Hyderabad

स्मृति ... नाम ... Lucknow ... वादी ...

श्रीमान

एडवोकेट
वकील साहब

नाम अदालत
नं० मुकदमा
फरीकत

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 पैरवी या उत्तर प्रयुक्त करे या दावा व वकील निगरानी व बयान तहरीर दाखिल करें या कोई कागजात या सनद इत्यादि पेश करें या वापस करे या हमारी ओर से इजराय डिगरी करफे या रुपया जो हमें मिलने को है वसूल या राज नामा इकबाल दावा हमारी ओर करे या दाखिल करे या प्रतिवादी द्वारा दाखिल किया हुआ रुपया स्वयं अपने हस्ताक्षरों से या हमारी दस्तखत की हुई रसौद लेवे या जिम्मेदारी मुआवजा बाड या पुनर्बास भत्ता एग्योटी अर्धवासी या बृद्ध जोतकार एक्ट आदि के बांड लेवे तथा किसी मुकदमे पक्ष आदि नियत यह सब मय हानि लाभ के जो मिसिल में कार्यवाही करेगे हमें स्वीकार होगा और नियत मेंहनताना न मिलने पर वकील साहब को अधिकार होगा कि वह उपरोक्त मुकदमें में अपील या निगरानी पैरवी न करे इस लिए वकालतनामा लिख दिया कि सनद रहें और आवश्यक समय पर काम आवें

Accepted
[Signature]

मैकूलाल

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 Engineer serving
as A.E.N. No. 7, Shahjahanpur

Northern Railway, Shahjahanpur.

1. That I am serving as A.E.N. No. 7 Northern
Railway Shahjahanpur and have been arrayed as
respondent No. 3 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 1/11/89
Asstt. Engineer
N.R., Shahjahanpur

4/5

-2-

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 Gajadhar 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 Gajadhar was never screened. He was merely a D.C.L. Decasualised Labour (In revised Pay Scale) but never absorbed

1/11/88
BEN/SPN

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 ^{to} 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

4/11/89
AGN/SPN

27

-4-

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 ~~abridged~~ 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.

1/11/89
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 Mannual. It is further pertinent to mention that the deceased never contributed towards the Provident fund ~~not~~ ^{he} ever applied ^{for} 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 ~~Regular~~ Decasualised Casual Labour, have no claim for appointment till widows of regular employees are accommodated.

1/11/89 ⁶⁻²⁶
AEM/SDN

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 exgratia 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
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
4/4/09 [Signature]
REASON

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 thus being so the petitioners conduct ^{has} ~~have~~ 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
1/11/09
(S.C. Saxena)
Asstt. Engineer
N.Hy. Bhalajahangpur

I, S. C. Saxena, serving

as ASSE 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

Dated: 1.11.1988

1/11/88 (S.C. Saxena)
AEN/S DN

Read
187/188

23/

9

Annexure "I" //

अंतर देखो

Legal.

एन सी सी 405 (सी सी)

Date 22-12-88.

गंडत सेन प्रचलक कार्यालय

गुवाहाटी ।

Smt. Bij Rani

w/o. Gajodhan

vill: Samodha; P.O: Khajodha.

Dist: Haildori; Sandila.

अंतर देखो के आधार पर विचार देना जरूरी

अंतर देखो के आधार पर विचार देना अपने अधिकार पर विचार दिया गया । देव है कि निम्नलिखित कारणों से इसे स्वीकार नहीं किया जा सकता:-

क्यों कि आप का केल नियुक्ति के निमनो के अंतर्गत नहीं आता।

True Copy

लालम - आपका पी.पी.ए. पर:-

हस्ताक्षर इसे प्रेषित है।

ह. का. डा. 111

Gum

22/12

गंडत सेन प्रचलक

गुवाहाटी ।

4/11/89 (S.C. Saxena)
AEN/SPN

Before Central Administrative Tribunal,
Lucknow Bench: Lucknow

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

REJOIN-DER AFFIDAVIT

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD

LUCKNOW BENCH : LUCKNOW.

Rejoinder Affidavit on behalf of Petitioners

Inre

O A No. 148 - 89(L)



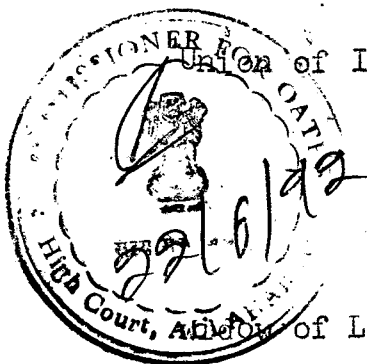
Smt. Brij Rani Devi and another

... 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,
Wife 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 th-e 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

...2/-

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.

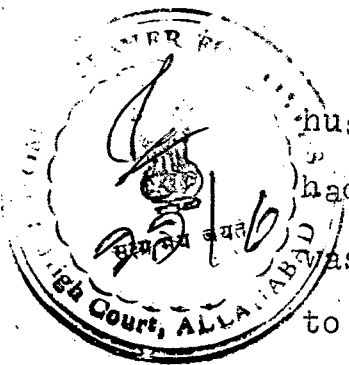
5- That contents of para 5 of written statement need no reply.


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 Desualised Labour 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 privileges 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 and privileges admissible to Temporary Railway Servant under chapter XXIII of Railway Establishment Manual. In this regard reference may be made to following extract of Railway Board circular No. E(NG) II-78/CL/12, dated 14.10.80 ER 190180 as published on page 771 and 772 of Railways Establishment Manual by Sri M L Jand 1985-86 Edition.



L11 Sub for


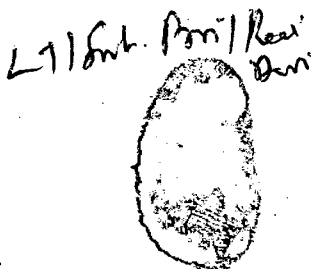
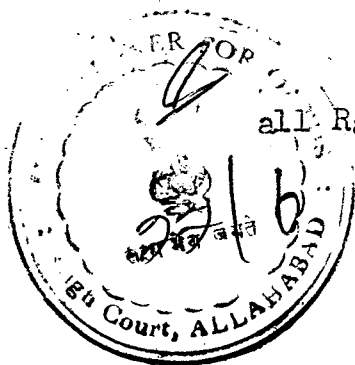
"BENEFITS ADMISSIBLE ON GETTING TEMPORARY STATUS: They will be entitled to a-ll the rights and privilege admissble to temporary Rly. servants under Ch. XXIII EM viz., Revised Scale of Pay. Compensatory and local allowan-ce. DA. medical facilities leave, PF facilities Passes, Notice for termination of 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, h-owever, count for any purpose like sen-iority 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 h-owever have a prior cla-im over others to permanent appointmen-t. Those who join as CL before 25 years of age, may be allowed relaxation of maximum age limit to the exten-t 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 exSta-tes Railways scales of pay applicable to them and on promotion also elected to retain



ex-Statas Railways scale of pay and

- (iii) pensionable ra-ilway 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 Providen-t Fund or not allotted P F number the dependen-t of deceased Railway servant cannotbe 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 evsive. In any view of matter th-e fact th-at concorned authorities by mean-s of Annexure A 1 intimated about the accident to higher authorities remains unchallenged. Decased having completed much more than 120 dayscontinious working has acquired status of Temporary employee and had become entitled to all rights an-d privilageß admissable to Tempo-rary Railway servants. Th-e ben-ifit of welfare schemes has to be extended to all empl-oyees who sacrifice their lives on duty.

10- That conten-ts of para 10 of W S need no reply.

11- That conten-ts of para 11 of W S call for no commen-ts.

12- That conten-ts of para 12 of W S need no commen-ts .

13- That con-tents of para 13 of W S need no comment except that deponen-t re-itrates that she is depending only upon meger income ascasual agriculture l-abour .



LT / Smb. Bm / Rms

1/15

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

15- That regarding conten-ts of para 15 of WS it is submitter th-at in view of facts stated in para 14 of WS when deponents application was admittedly forwarded then it is absolutely falso to say that no such application was received.

16- That in reply to conten-ts 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-ot 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-nd 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 wit-hdrawal/Funeral expenses and other immedia-te 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.



LTI Sub Br 7. Nov



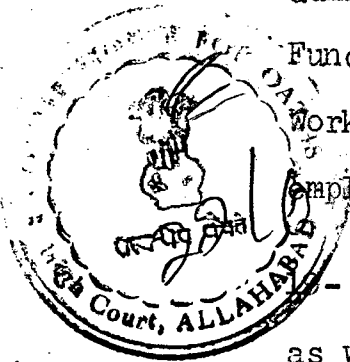
at the time of payment of the fund money or otherwise. The advance should, as far as possible, be granted to the person/persons eligible to receive the Provident Fund money in terms of Rule 1340 and should be limited to the share of the person concerned. (Rule 1322 R-1).

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

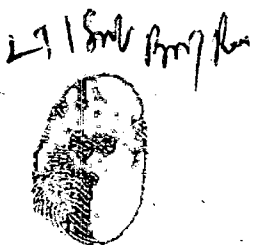
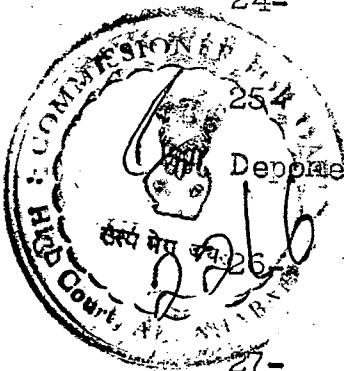


L-1 Sub Pri R

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, th-erefore 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 th-at 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, wh-ich is re-iterated.
- 24- That contents of para 24 of WS need no reply.
- 25- That contents of para 25 of WS are denied.
Dependent 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
- ...8/-



and consequential.

29-an-d30- 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

L1 Smt. Brij Rani Devi

22 June 1992.

Smt. Brij Rani Devi.

V E R I F I C A T I O N

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

L1 Smt. Brij Rani 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.

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 my self 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. SAVITRI SINGH)
OATH COMMISSIONER
High Court Allahabad.
Lucknow Bench Lucknow.
No. 43/13/16
Date 22/6/92

OATH COMMISSIONER

8/4)

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

Claim No. 148 - 89(L)

Smt. Brij Rani Devi Petitioner.

Versus

Union of India & oths. Respondents.

Anx. 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 casual 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.

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

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

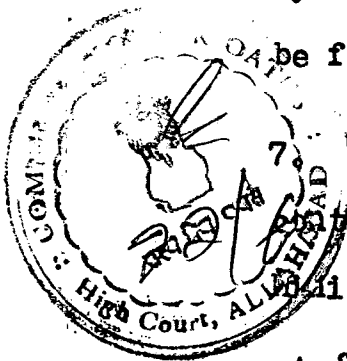
3. During the FNM meeting with NFIR held on 21/22.7.86 it was explained to the Federation that the provisions relating to compassionate appointment in the case of regular employees cannot be extended to casual labour with temporary status. It was added however, that individual cases of extreme hardship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

4. The matter has been examined further in the light of deliberations in the said FNM 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 extant 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 true copy
[Signature]
M



LT/1 Smt. [Signature]

SPECIAL POWER OF ATTORNEY.

In the Central Administrative Tribunal Allahabad Circuit Bench,
Court of Lucknow
Regn. No. 148/1989 (L)

Smt. Brig. Rani Devi & others Plaintiff
Appellant
Petitioner

Versus
Union of India & others

Defendant
Respondent
Opposite Party

KNOW all men by these present that I S.D. Gupta, Devel. Rly. 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)

Devel. Rly. Manager
Northern Railway
Moradabad

Accepted
D.C. Saxena
Counsel for Plaintiff
for 27.9.1989

SPECIAL POWER OF ATTORNEY

In the court of Central Administrative Tribunal
Addl Circuit bench Lucknow

Regn No No 140/08(L)

Plaintiff
Appellant
Petitioner

Smt Brig Ranigolhnd

Versus

Union of Indis others

Defendant
Respondent
Opposite Party

KNOW all men by these present that I S.N. Pandey, DRM/MB
Northern Railway, Moradabad do hereby appoint and authorise
S/Shri B.K. 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 to set my hand this
day of 19

Accepted
B.K. Shukla
Advocate
17/12/91

S.N. Pandey
(S.N. Pandey)
Northern Railway
Divl. Rly. Manager
Northern Railway
Moradabad

Registered A/D

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

Gandhi Bhawan, Opp. Residency
Lucknow - 226 001

(Registration No. 800 of 198 0(3))

No. CAT/LKO/Jud/CB/

dated 27.3.2000

State of India & Others APPLICANT(S)

VERSUS

Union of India & Others 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 _____ 198 _____ 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 _____ day of _____ 198 _____.

Dinesh/

For DEPUTY REGISTRAR

Enclosed Copy of Order

Dated: 28.3.00 of the Tribunal
passed there on.

- 1. Union of India, through Secretary to Govt. of Railways, Rail Bhawan, New Delhi.
- 2. Divisional Rail Manager, Allahabad.
- 3. Assistant Engineer, Rly, Shahjahanpur.
- 4. Permanent way Inspector (Special) Northern Railway, Shahjahanpur.

A/6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH,
LUCKNOW.

C.M. 207/89 (L)

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

Versus.

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

Application under rule 3(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.

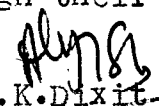
Wherefore, it is most respectfully prayed that
delay in filing claim petition from 26th June 1989 to
onwards may kindly be condoned and claim petition be heard
and decided on merits.

Applicant.

Smt. ~~Bindra Devi~~ Brijranidevi
& Maikoo Lal.

Through their counsel

June , 1989.


A.K. Dixit
Advocate.

LT Smt. Anjali

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH



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

Versus.

Union of India & others Respondents.

C. m. 2001/09(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 ^{is} ~~is~~ 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 ~~exists~~ is not condoned deponent will have to suffer irreparable loss and injury on account of no ~~part~~ fault of her own.

LTI 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.

June 27, 1989.

Deponent

(Smt. Brij Rani 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 COMMISSIONER
High Court, Allahabad
Lucknow Bench

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

P. T. O.

4/50

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. 5/-
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~~ of 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 ~~rule~~ 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 CPF 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) ~~The 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 TRIBU
CIRCUIT BENCH LUCKNOW
O.A. No. 143 of 1989 (L)

Smt. Bej Rani Devi & Others
Versus

Union of India & Others
.....

Dated: 11.0.1989.

Hon'ble Mr. D.K. Anand.

Hoard Mr. A.K. Dixit.

Admit.

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

List this case on 10.11.1989 for or
as the case may be.

As regards interim prayer, issue no
cause as to why the relief asked for be

1511 on 27.9.1989 for hearing on int

Branch

Lucknow

Sd

J.

11

12

Control Panel