

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

Cause Title C.A. 187 of 1989 (L)

Name of the parties Smt. Malti Saha

Applicant.

Versus

Union of India

Respondents.

Part A.B.C.

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Certified that no further action is required to take
and that the case is forwarded to the record rooms (D).

File B/C destroyed on 09-5-12.

24/6/11

Check on
10/1/12

RJ

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

4-889

Registration No. 187 of 1989 (L)

APPLICANT(S) Cont. Maiti Singh

RESPONDENT(S) Union of India

<u>Particulars to be examined</u>	<u>Endorsement as to result of examination</u>
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 pagining 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

<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/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

(P3)

ORDER SHEET

REGISTRATION NO. 187 of 1989 (4)

APPELLANT
APPLICANT

Smt. Matli Sumbri

DEFENDANT
RESPONDENT

VERSUS

Union of India

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<u>8.9.89</u>	<p>Hon'ble Justice K. Nath, V.C. Hon'ble Mr. K.J. Raman, A.M.</p> <p>Issue notice to opposite parties why they should not pay half of the Provident Fund amount to the credit of deceased Kanhaiya Lal and the whole of the Railway Employees Insurance Scheme amount and leave encashment amount in terms of the order dated 17.7.85 of Civil Judge, Mohan Lal Ganj, Lucknow.</p> <p>The applicant will also implead Sudhir Kumar who is a party to the proceedings which led to the order dated 17.7.85 of the Civil Judge. List for admission orders on 13-10-1989.</p>	<p><i>Notice given 12/10/89 C.M. Am. filed too 10/10/89</i></p> <p><i>OR Notice given on 18.9.89. Neechi. reply re Any answer re Cover has been return back.</i></p> <p><i>The letter re applicant has been e-mailed for amendment submitted admission / etc</i></p>

A.M.

V.C.

rmv

No Sitting: Adj. to 22.12.89.
Counsel for applicant is present.

13/10

13 X 89

(P.M.)

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
4-4-90	C.A 187/89	

Hon. K. Nark, V.C.
Hon. K. J. Ramas, A.M.

Shri N. S. Srinastava, Advocate files power on behalf of O.P. No. 3 and requests for. is allowed 2 weeks time to file counter. The rest of the O.P.s have not filed counter. The case will proceed, ex parte against them. Applicant will file rejoinder by the date fixed. List for further orders on 27-6-90.

OR

Dr.

V.C.

276
90

Hon. Mr. Justice K. Nark, V.C.
Hon. Mr. K. Jayaram, A.M.

OR

Heilth C.A.
for RA H.
S. F. H.

The case called for. Name for the applicant. No reply has been filed on behalf of O.P. No. 3. Mr. Anil Srinastava appears for O.P. Nos. 1 & 2. Short Counter on behalf of respondents has been filed as to which respondent has not been filed.

List for final hearing.

by 29-8-90.

OR

Dinesh

A.M.

V.C.

Heilth C.A.
behalf of O.P. No. 3
for any R.P. H.
S. F. H.

45

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration O.A. No. 187 of 1989(L)

Smt. Malti Sinha Applicant

Versus

Union of India & Others Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A. B. Gorthi, Member (A)

(By Hon. Mr. Justice K. Nath, V.C.)

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant Smt. Malti Sinha has claimed payments of the Provident Fund amount, Insurance Money, Leave Encashment and gratuity admissible to Kanhiya Lal, an employee of the Chief Mechanical Engineer's office by reason of his death on 2.9.90. The amounts of Provident Fund and Insurance Money and the Leave Encashment are set out in para 6(1) of the application. The main contest came from respondent No. 3 who was impleaded under the orders of this Tribunal and who claimed those amounts. It appears that cross cases under the Indian Succession Act were instituted by the applicant, as the daughter and heir of the deceased and by respondent No. 3 Sudhir Kumar *Claiming*

to be adopted son of the deceased. The two cases were consolidated and heard and disposed of by the Civil Judge, Mohanlalganj, Lucknow by judgement dated 17.7.85 in Misc. Cases No. 36/81 and 70/81. It

was held that the present applicant was entitled to 1/2 of the Provident Fund amount and the whole of the Insurance claim and the leave encashment whereas Sudhir Kumar could be entitled to the remaining 1/2 amount of the Provident Fund. That order became final. The Railway Administration has no objection to the payment of these amounts in accordance with the orders of the Civil Judge in the case for Succession Certificate.

2. It appears that the present applicant also filed a Regular Civil Suit No. 306/85 for declaration of the nomination in favour of Sudhir Kumar to be invalid in order to entitle him to receive 1/2 of the Provident Fund amount which was ordered to be paid to Sudhir Kumar by the Civil Judge. In para 6(4) of the application, it is stated that the Suit was dismissed against which an appeal was filed in the Court of District Judge. The counsel appearing on behalf Sudhir Kumar has filed a photo copy of the appellate order dated 5.1.91 by which the appeal was dismissed. The learned counsel for the applicant says that he intends to file a Second Appeal in the High Court. Be that as it may, so far as the record presently stands, Sudhir Kumar is entitled to receive 1/2 of the amount of the Provident Fund.

3. The only other subject matter of controversy is the amount of gratuity. No dispute in respect

thereof is raised by Sudhir Kumar. It is admitted by the learned counsel for the applicant that even the gratuity amount was paid to the applicant by a cheque dated 5.3.90; the amount is stated to be Rs.10,928-24. The learned counsel for the applicant says that for reason of delayed payment of the gratuity amount, the applicant ought to be awarded interest.

4. It is not quite clear on what date the applicant laid a claim for the amount of the gratuity. It is also not quite clear as to what are the rates of the interest payable on the gratuity amount. Even so we think that the interest may be awarded as permissible under the law from 1.9.81 which would have provided almost one year's time to the Department to settle the claim of the gratuity amount.

5. This petition is therefore disposed of with a direction that respondents 1 & 2 shall pay to the applicant the amounts payable to her on account of the Provident Fund, the Insurance claim and the leave encashment as determined in the judgement and order dated 17.7.85 of Civil Judge, Mohanlalganj, Lucknow mentioned above and shall further pay the interest to the applicant on the sum of Rs.10,928-24 with effect from 1.9.81 to 4.3.90 at such rates as may be admissible under the applicable statutory provisions.

Shanay S
Member (A)

Ch
Vice Chairman

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 4.8.89.

Date of Receipt by Part

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, U.P., ALLAHABAD.

BENCH AT LUCKNOW.

Deputy Registrar(J)

Case Application No. 187 of 1989.

Compilation No. 1.

Smt. Malti Sinha Applicant.

Versus

The Deputy Chief Mechanical Engineer (W),

Carriage and Wagon Workshops (N.R.), Lucknow.. Respondent.

I N D E X

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4.	Power	9

Lucknow:

Ramapati Ram

Advocate,
Counsel for the Applicant.

Dated: August 4, 1989.

Filed today. ~~Not to file~~ Ramapati Ram 8/9/1989.

Ramapati Ram 8/9/1989.
Adv.
4/8

(29)

BEFORE THE CHAIRMAN, CENTRAL ADMINISTRATIVE TRIBUNAL,

U.P. ALLAHABAD, BENCH AT LUCKNOW.

Claim Petition No. 187 of 1989.

(Under Section 14 of the Central Administrative)
Tribunal Act, 1985.

(1) Particulars of Applicant

Smt. Malti Sinha, aged about 35 years, daughter of late Sri Kanhiya Lal and wife of Sri Vinod Kumar Sinha, resident of near S.D.M. Compound, Sumba Bagh, Sandila, District Hardoi.

--- --- Applicant.

Versus

(2) Particulars of Respondents

Amended as per order dated 2.2.90.

Ramapati Ram
Advocate (3) 7.2.90
Counsel for the applicant.

1. The Deputy Chief Mechanical Engineer (W), Carriage and Wagon Workshops (N.R.), Alambagh, Lucknow.
2. *The person of Justice through the General Manager, Northern Railway, Barrackpore, Respondent 5.*
3. Sri Sudhir Kumar, Major, Son of Gurbhare Lal Sinha, *respondent of 26/39, Barrackpore, Calcutta.*

Particulars of Orders against which the application is made.

The Order as contained in the letter dated 15.5. 1989 of the respondent that till the disposal of the appeal No.22 of 1988 (Smt. Malti Sinha versus Sudhir Kumar which is with respect to Rs. 7,893.50 being half of the amount of the Provident Fund of Sri Kanhiya Lal deceased T. No. 254-C) pending in the Court of XI Addl. District Judge, Lucknow no payment of any dues of the deceased Sri Kanhiya Lal would be paid to the applicant.

(4) Jurisdiction of the Tribunal

The applicant declares that the subject matter of the impugned order against which the present application is being filed relates to the

Ramapati Ram
Adv.

payment of the gratuity, amount of Employees Insurance Scheme, encashment of leave and half of Provident Fund of Sri Kanhiya Lal deceased of the said Workshop is within the jurisdiction of this Hon'ble Tribunal.

(5) The applicant submits that the present application is against the order/letter dated 15.5.89 of the respondent and is within the limitation as laid down under Section 21 of the Central Administrative Tribunal Act, 1985.

(6) Facts of the case

The facts of the case are as under:-

1. That Sri Kanhiya Lal, T.No.254-C who was employed in the Workshop under the respondent while in service died on 2.9.1980 leaving behind him the applicant as his only heir. By his letter dated 11.3.1981 the respondent informed the applicant that the following dues of the deceased would be paid to the applicant on production of the Succession Certificate:

(a) Provident Fund Rs. 15,787.00
(b) Amount of Insurance Scheme ...	Rs. 5,000.00
(c) Encashment of 65 days unutilized leave Rs. 1,879.15

Total ... Rs. 22,666.15

2. The applicant applied in the Court of Civil Judge, Mohanlalganj at Lucknow for grant of Succession Certificate which was registered as Misc. Case No.36 of 1981.

3. That the deceased Sri Kanhaiya Lal on

Ranapali Ram
Adv.

All

22.6.1977 had filled his Provident Fund Nomination Form in which he had nominated one Sudhir Kumar for half of the amount of Provident Fund describing him as his son while he had no other issue. On the basis of that nomination Sudhir Kumar, son of Girdhari Lal (son of the maternal uncle of the applicant) also applied for grant of a Succession Certificate with respect to the said entire amount of Rs.22,666.15 with the allegation that he was the adopted son of the deceased. His application was registered in the same Court of Civil Judge, Mohanlalganj at Lucknow as Misc. Case No.70 of 1981.

4. That both the cases were consolidated. The learned Civil Judge decided both the cases after recording evidence by his order dated 17.7.1985 and held that Sudhir Kumar was not the adopted son of the deceased; but granted the Succession ^{certificate} for half of the amount of Provident Fund to Sudhir Kumar i.e. for Rs.7,893.50 and for half of the amount of Provident Fund, amount of Group Insurance and Leave Encashment i.e for Rs.14,772.65 to the applicant. No appeal was filed by any one. The applicant ,however, filed R.S. No.306 of 1985 against Sri Sudhir Kumar, son of Sri ~~S. Kanhya Lal~~ ^{Girdhari} for declaration that the said nomination was not in favour of Sudhir Kumar , son of Girdhari Lal and as such the applicant is entitled for the said half amount of Rs.7,893.50 of the Provident Fund also. The said Suit was dismissed by the learned V Addl. Civil Judge, Lucknow and so the applicant filed the Civil Appeal No.220 of 1988

ANZ

Smt. Malti Sinha ~~and~~ Sudhir Kumar, and the learned XI Addl. District Judge issued a temporary injunction restraining the said Sri Sudhir Kumar from realising the said amount of Rs. 7,893.50 from the respondent on the basis of the Succession Certificate granted to him.

5. That the applicant on receipt of the Succession Certificate applied to the respondent that the said amount of Rs. 14,772.65 with interest as well as the amount of gratuity for which no succession certificate was required, ^{be paid to her} but no payment has been made to the applicant.

6. That the applicant's husband's sisters ^{and} marriage has been settled, was to be performed in May, 1989. So the applicant made an application dated 14.10.1988 to the respondent to release the payment so that her husband be relieved of some financial arrangement for the expenses of the said marriage which is a costly affair. But the respondent by his letter dated 15.5.1989 refused to make payment till the said appeal No.22 of 1989 is not finally disposed of. For want of funds the marriage had to be postponed for the first week of November 1989 with the promise that certain ceremonies would be performed in the Second Week of September, 1989.

7. That the amount of Rs. 14,772.65 for which a separate succession certificate has been granted and given to the respondent is not in dispute and there is no justification for withholding payment.

of the same alongwith the amount of gratuity which has nothing to do with the amount for which succession certificate was granted to Sudhir Kumar son of Sri Girdhari Lal.

8. That the applicant is very much aggrieved by the illegal detention of the said amounts and finally by the flat refusal of the respondent as communicated by his letter dated 15.5.1989 and as she is in dire urgent need of money for the said marriage, and there is no other alternative but to approach this Hon'ble Tribunal for a direction to the respondent that the said amount of Rs.14,772.65 as well as the amount of gratuity and any other amount payable to the applicant as the legal heir of Sri Kanhiya Lal,deceased, be paid to her within three weeks with interest.

(7) Relief sought

In view of the facts and circumstances mentioned herein before the applicant prays that this Hon'ble ~~Tribunal~~ ^{Court} may be pleased to direct the respondent to pay the applicant the said amount of Rs.14,772.65 for which the Succession Certificate has been given ~~gratuity~~ ^{to her} as required, and also the amount of ~~with~~ upto date interest within three weeks.

(8) Interim Order

The applicant prays that the respondent be directed to make payments in question within three weeks.

(9) Details of remedies exhausted

The applicant declares that she did not ~~Ramapati Rao Adv.~~

avail any other remedy except application s and approaches to the respondent.

(10) Matter not pending in any other Court.

The applicant also declares that the amounts for which this application is being made is not pending before any court of law, or any other authority, or Bench of the Tribunal.

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

1. Number of Indian Postal Order- ०२९६३१
2. Name of issuing Post Office- Aminalab Park
Lucknow
3. Date of Issue of Postal Order- 8-89
4. Post Office at which payable- Allahabad

(12) Details of Index

An Index containing the details of the documents has already been attached to this application.

(13) List of enclosures

As per documents given in the Index.

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

Malti Sinha

I, Smt. Malti Sinha, wife of Sri Vinod Kumar Sinha, residing near S.D.M. Compound, Sumba Bagh, Sandila, District Hardoi (U.P.) do hereby verify that the contents of paragraphs (1) to (13) are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place: Lucknow

Malti Sinha

Aug
Dated: July 4, 1989

Signature of the Applicant

To,

The Registrar,
Hon'ble Central Administrative Tribunal, U.P.,
Allahabad, Bench at Lucknow.

Ramapati Rao
Adv. 418189

1974-10-88

सुवा का

श्री मान ३५ मुरव्वा योग्यिक अधिकारी

सावारी रात दिलो कापाला

एलेव, आलम बा
लैक्सन ३७ (३० फ्ट)

२५४ :- २५४ श्री कन्दैया लाल (४०८) -
२५४ C के निपटने यन का गुणात्मक

મહિના

सावनी ने पक्ष दिल्ली के 29-8-38 का

अपने ताकन करते हुए प्राची के २९ वर्ष परिवार के नियमन वन की राशि वा गुणतान इस का शब्द तिरंगे करने की

काम करना उत्तम अपर्याप्त नहीं करा तो काम हुआ 12-12-88

के लाला वह जो अपना नाम लिया था वह वहाँ जाना चाहता था वह वहाँ जाना चाहता था

मानविकी विवरण विवरण विवरण विवरण विवरण

उपर्युक्त दाता का नाम विवरण देना चाहिए

317 ~~mafi~~ ~~317~~ ~~317~~

1966-1967

Priti Singh

“सी मति बहनती हिं-हा”

२५४ वा ल १२० र २५४

W.O. श्री त्रिवेदी नियमित विद्युत
H.O. श्री द्वितीय विद्युत (स-दा)

रस० और रस० का परिवर्तन

Malti Sinha

Annexure-2

8
A16

उत्तर रेलवे
NORTHERN RAILWAY

कानूनी उपचार प्राप्ति का नोटारी, आलमबाजार-लालगढ़
पटाक 254मी। दिनांक 10-5-80

दिनांक 15-5-89

कैवल्य बालदी बिना-

पुरुष की विवाह संहिता का भूतपूर्व छिल्क 254मी

पटोटी एवं विलोर कुमार विनाई

संखा ०३। १९८० का लालगढ़ का नाम

सरवा नाम- साड़ीला- ३२३०३ (उपर)

विवाह- स्वतंत्र कैहानील मूलपूर्व छिल्क 254मी
के नियमों का अनुत्तम।

उत्तर रेलवे के आपके प्राप्ति का दिनांक 16-10-88
क्रम में शान्ति विवाह जाता है तो आपका दायर की पटी
विवाह आपका संखा २२/१९८४ तो ये अडीसज्जन त्रिलोचन
लक्ष्मण के नामानुसार जल रही है एवं १९८१ मा
होने वाले ज्ञानका विवाही नी नियमों का अनुत्तम
विवाह तो संकेत है।

C. 131709 -

द्वितीय दूसरे विवाह (पुरुष)
शपारी का शपारा विवाह नियमों
ए. ए. बालमबाजार, लखनऊ

द्वितीय दूसरे विवाह का एक उद्देश्य द्वितीय विवाह
संखा २६३/३० लक्ष्मण-लक्ष्मण का नी नी २०८८ का नाम
प्राप्ति है।

Moti Sinha

बअदालत श्रीमान

The Central Administrative Tribunal, U.P. Allahabad
Bench at Lucknow

9

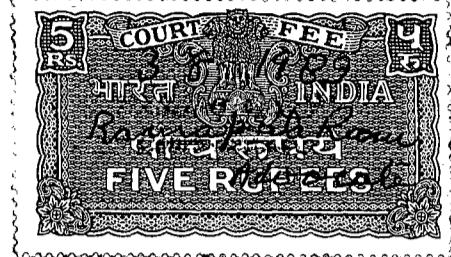
प्र०

Applicant: Smt. Malli Sinha
वादी (मुद्दे)
मुद्दे (मुद्दालेह)

का

महोदय

वकालतनामा



बनाम

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुद्दमा

सन् १९८९ पेशी की ता० ४.८.१९८९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Ramapati Ram Advocate

Gaura House, 56 A, Gwynne Road, Lucknow

बकील

एडवोकेट महोदय

को अपना बकील नियुक्त करके (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में बकील महोदय स्वयं अथवा अन्य बकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या अन्य कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रूपया वसूल करें या सुलहनामा या इकबाल दावा तथा अपील व निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तस्दीक करें या मुकद्दमा उठावें या कोई रूपया जमा करें या हमारी या विपक्ष (फरीकसानी) का दाखिल किया रूपया अपने या हमारे हस्ताक्षर-युक्त (दस्तखती) रसीद से लेवें या पंच नियुक्त करें बकील महोदय द्वारा की गई वह कार्यवाही हमको सर्वथा स्वीकार है और होगी। मैं यह भी स्वीकार करता हूं कि मैं हर पेशी स्वयं या किसी अपने पैरोकार को भेजता रहूंगा। अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे बकील पर न होगी। इसलिए यह वकालतनामा लिख दिया कि प्रमाण रहे और समय पर काम आवे।

बालतनामा
नं० मुकद्दमा
की दिनांक

Accepted

Ramapati Ram
Advocate

४/१९८९ (गवाह)

Malli Sinha

हस्ताक्षर

साक्षी (गवाह)

दिनांक

२-८-१९८९

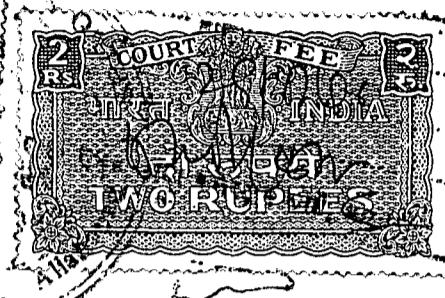
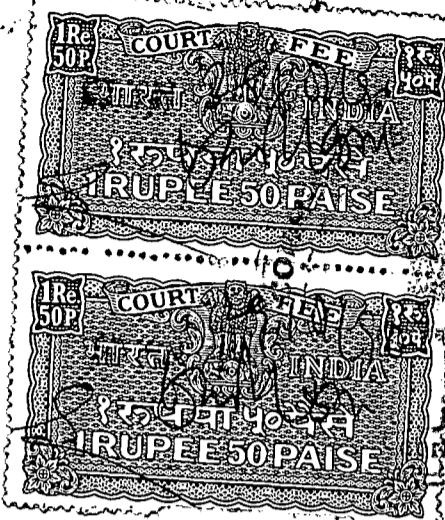
महीना

सन् १९ ई०

AB

समझा:- सेन्ट्रल एडमिनिस्ट्रेटिव दिविनल उत्तर प्रदेश इलाहा बाद ,

लखनऊ बैच, लखनऊ ।



श्रीमती मालती सिंहा

प्राथी ।

बनाम्

दि डिप्टो बोफ मैकिन्कल इन्जीनियर आदि ----- विष्फोगण ।

प्रति शपथ- पत्र मिन्जानिब विष्फो नं ३

मै सूर्योर कुमार आयु लगभग २। साल पुत्र श्री निराजा रो लाल
निवासी- म०न०- २६९/३९ बिरहा ना लखनऊ का हूं शपथ पूर्की निम्न
ब्यान करता हूं :-

1- यह कि याचिका को धारा ३ वै संकेत मे यह कहना है कि अपील
नं २२ सन् १९८८ अतिरिक्त जिला जम के चायालम मे विवाराधीन
है इस का रण विष्फो नं । नै स्वगीथ मिसाधा से लाल के देयो का
भुगतान नहीं किया जब तक भुगतान किए जाने वाले धन से सम्बन्धित
विवाद समाप्त नहीं हो जाता ,भुगतान न करने का आदेश अपनी जगह
किस्तुल उचित है ।

2- यह कि याचिका को धारा ४ व ५ क्षेत्राधिकार से संबंधित है इसके
संकेत मे विष्फो को कुछ नहीं कहना है ।

3- यह कि याचिका का पैरा ६॥१॥ के सम्बन्ध मे स्वगीथ कहैया लाल
का प्राथी एकमात्र वारिस है को छोड़कर शोष स्वीकार है ।

4- यह कि याचिका के पैरा ६॥२॥ से ६॥४॥ के संकेत मे कुछ नहीं कहना
है ।

5- यह कि याचिका के पैरा ६॥५॥ के संकेत मे शपथो को कोई जानकारी
नहीं है ।



कुमार सुरेश

6-यह कि याचिका के पैरा 6०६० मे उल्लिखित तथ्य गलत व इकार है याचिकाकर्ता के पति को छन का विवाह जनवरी १९९० को दिल्ली से हो चुका है ।

7- यह कि याचिका के पैरा 7 इकार है जब प्राकिडल फन्ड को धनराशि विवादित है तो उसका भुगतान विफ्फी नहीं । द्वारा न किया जाना उचित ही है ।

8- यह कि याचिका के पैरा 6०८० गलत व इकार है । अपील माननीय जिला जज के न्यायालय मे विवाराधीन है जब तक उसका नियाय नहीं हो जाता किसी भी धनराशि का भुगतान नहीं किया जा सकता है ।

9- यह कि याचिका का पैरा 7 मे मार्गी गए अनुतौष्ण पाने का हकदार याचिकाकर्ता नहीं है जब तक जिला जज के न्यायालय मे विवाराधीन अपील का नियाय नहीं हो जाता तब तक किसी भी धनराशि का भुगतान नहीं किया जाना चाहिए ।

10-यह कि याचिका का पैरा 8 इकार है । प्राथीयाचिकाकर्ता को कोई ऐसी आवश्यकता नहीं है और न हो किसी तरह से हानि का अद्वेशा है अतः याचिका के नियाय के दौरान कोई भी अंतिम आदेश नहीं देना चाहिए ।

11- यह कि याचिका का पैरा 9 व 10 मे जैसा याचिका कर्ता ने कहा है उसका पालन नहीं कर रहा है जिला जज के न्यायालय मे अपील विवाराधीन है अतः उसका कस्त असत्य हो जाता है ।

12- यह कि याचिका के पैरा 11, 12 व 13 के विषय मे कुछ नहीं कहना है ।

13- यह कि स्वगीय कर्त्तव्य लाल ने शापथी को विधिवत गौद ले लिया था और पुत्र को भाति रहता था उनकी मृत्यु के बाद शापथी ने भी उत्तराधिकार प्रमाण पत्र के लिए सिविल जज के न्यायालय मे प्राथीपत्र दिया था । न्यायालय ने प्राथी को दत्तक पुत्र नहीं माना लेकिन प्राकिडल फन्ड मे श्रीमती मालती सिंहा व शापथी दोनों का नामित



अमृता कुमा

होने के कारण प्रौद्योगिकी फँड का आधी-आधी धनराशि का दोनों का उत्तराधिकार पुमाणा- पत्र पुदान कर दिया था । शपथी ने ख्यो श्री कन्हैया लाल की लड़की से मुकदमा लड़ना उचित न समझा अतः उसने माननीय सिविल जज के नियायि के विष्ट अपील, निगरानी अध्यात्मा कोइ अन्य वाद दाखिल नहीं किया । याचिका कता ने घोषणा-आत्मक वाद दाखिल किया वह भी रुकीकार नहीं किया गया और शपथी को प्रौद्योगिकी फँड के 1/2 भाग को पाने का हकदार माना गया ।

14- यह कि याचिकाकता ने जिला जज लखनऊ के चायालय में अपील संख्या 22 वडा 88 विवाराधीन है जिससे पेसी 28-9-90 नियत है जब तक अपील को नियायि न हो जाय धनराशि का भुगतान नहीं होना चाहिए ।

15- यह कि याचिकाकता ने अपनी याचिका में भुगतान पाने हेतु अपने पति के छन को विवाह की बात कहो है लेकिन उसको छन का विवाह जनवरी 1990 में हो चुका है अतः कोइ *wyement* नहीं है ।

16- यह कि याचिका कता की याचिका गलत आधारोंव गलत तथ्यों पर है अतः निरस्त होने योग्य है ।
लखनऊ ।



दिनांक:- 29-8-90


विष्टी न०- ३

पुमाणामीकरण

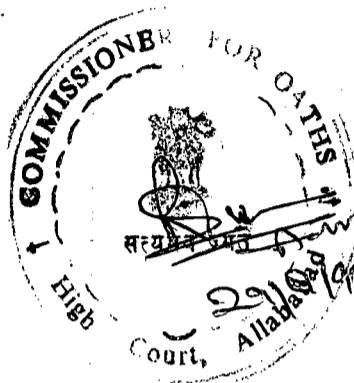
मैं शपथी सुधीर कुमार पुत्र श्री गिरधारी लाल श्रीवास्तव पुमाणित करता हूँ कि प्रति शपथ-पत्रको धारा । से ६ वे ॥ १३ ॥ मेरे निजी ज्ञान से सत्य व सही है तथा धारा ७, ८, ९, १०, ११, १२, १४ के सत्य होने मे विश्वास करता हूँ ।

(P2)
(P2)

आज दिनांक 29-8-90 को अपने हस्ताक्षर लगाकर आहता
क्वेहरी लखनऊ मैं प्रमाणित किया ।
लखनऊ ।

विफली नं- 3

दिनांक:- 29-8-90



मैं शपथी को जानता हूँ जिसने हमारे

सामने अपने हस्ताक्षर लगाए ।

U. S. Jaiswal
29.8.90

अधिवक्ता

मेरे समझ शपथ पूर्वी व्यान किया — मुख्यमंत्री
दिनांक — २९-८-१९९० समय — १०:३० ए०ए० प्र००८०० शपथी
द्वारा,

किस अधिवक्ता द्वारा शिनाखत किया गया — मुख्यमंत्री
हाइकोर्ट लखनऊ, छाड्योठ, लखनऊ ।

मेरे द्वारा शपथी का परोक्षण करने पर मैं संतुष्ट हूँ और मैं सहमत
हूँ कि उसने शपथ पत्र मेरी वर्णित तथ्यों को सुन व समझ लिया है जिसको
मैंने पढ़कर सुना दिया एवं समझा दिया है ।

U. S. Jaiswal
Oath Commissioner High Court
Lucknow Bench

Copan No. ८२/१९९० Date २९.८.१९९०

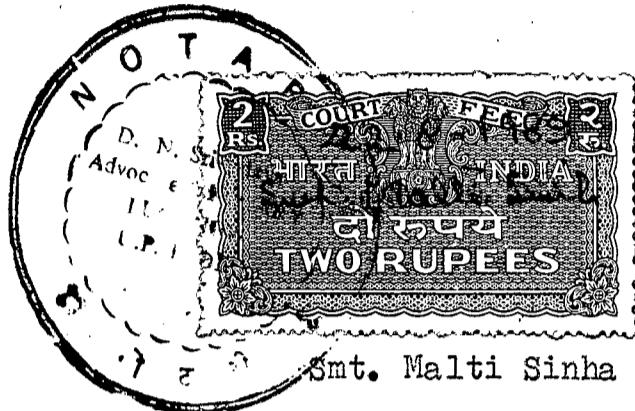
A22

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, U.P.,
ALLAHABAD, BENCH AT LUCKNOW.

AFFIDAVIT

IN

CLAIM PETITION NO. OF 1989.



Smt. Malti Sinha Applicant

Versus

The Deputy Chief Mechanical Engineer, (N.R.)

Alambagh, Lucknow Respondent.

I, Smt. Malti Sinha, aged about 35 years, wife of Sri Vinod Kumar Sinha, near S.D.M. Compound, ^{NOTARY} Sumba Bagh, Sandalā, District Hardoi hereby solemnly affirm and state on oath as follows:-

1. That the deponent is the applicant in the above noted claim petition and she is fully conversant with the facts of the case.
2. That the deponent is the claimant for the entire amount of Employees Insurance Scheme, ^{NOTARY} encashment of leave, Gratuity and Half of the amount of the Provident Fund of Sri Kanhaiya Lal deceased T.No. 254-C who died on 2.9.1980 while in the service of Northern Railway under the Deputy Chief Mechanical Engineer (W), Carriage and Wagon Workshop, Alambagh, Lucknow.
3. That after the death of her father, Sri Kanhaiya Lal, the deponent applied to the learned Civil Judge, Mohanlalganj at Lucknow for grant of Succession Certificate with respect to the Provident

Durgesh Narain Srivastava
Advocate & NOTARY

In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow

Malti Sinha

X

NOTARY

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Fund, amount of Employees Insurance Scheme and encashment of leave as per direction of the respondent. One Sudhir Kumar also applied for grant of Succession Certificate with respect to the same amounts. The learned Civil Judge as per his order dated 17.7.1985 passed in Civil Misc. Case No. 36 of 1981- Smt. Malti Sinha versus Estate of Kanhaiya Lal deceased and Misc. Case No.70 of 1981- Sudhir Kumar versus Estate of Kanhaiya Lal deceased granted the Succession Certificate of Rs.7,893.50 being half of the amount of Provident Fund to Sudhir Kumar and the deponent was granted the succession certificate for Rs.7,893.50 as half of the amount of the Provident Fund, Rs.5,000/- of the amount of Employees Insurance Scheme and Rs. 1,889.15 on account of encashment of leave , total Rs. 14,772.65. The deponent produced the succession certificate in the office of the respondent and requested that the said amount as well as the amount of Gratuity be paid to her with upto date interest.

4. That the deponent was agreed by the grant of succession certificate to Sudhir Kumar for Rs.7,893.50 on account of half of the Provident Fund amount of the deceased Kanhaiya Lal and so she filed a Regular Suit No. 306 of 1985- Smt. Malti Sinha versus Sudhir Kumar

Durgesh Narain Srivastava for declaration in the court of Munsif North, Lucknow Advocate & NOTARY In Court of Samadhi Mandir that the nomination of half of the amount of the Provident Fund in favour one Sudhir Kumar, was void as Sri Kanhaiya Lal deceased had no son and that Sudhir Kumar was not entitled for the half of the amount of Provident Fund and that the deponent was entitled to that half also. The said suit was dismissed by the learned V Addl. Civil Judge , Lucknow on 10.12.1987. The deponent against the judgment and decree ~~for~~ passed in the said suit filed

Malti Sinha

Regular Civil Appeal No. 22 of 1988 in the court of District Judge, Lucknow which has been transferred to the court of XI Addl. District Judge, Lucknow- Smt. Malti Sinha versus Sudhir Kumar, son of Girdhari Lal.

True copies of the judgment and order dated 17.7.85 passed in Misc. Case No.36 of 1981-Smt. Malti Sinha versus Estate of Kanhaiya Lal deceased and Misc. Case No.70 of 1981 Sudhir Kumar versus Kanhaiya Lal deceased passed by the learned Civil Judge, Mohanlalganj Lucknow is being filed as Annexure No.A-1 and a true copy of the Memo of Appeal No.22 of 1988- Smt. Malti Sinha versus Sudhir Kumar is being filed as Annexure-A-2 to this affidavit.

5. That the amounts payable to the deponent by the respondent on account of the dues of her father, Sri Kanhaiya Lal ~~for which she has been granted the Succession Certificate~~ deceased are not in dispute in any court ~~NOT~~ or before any authority but the respondent has not been paying the same to the deponent on the pretext that so long the said appeal no.22 of 1988 in which the amount of Rs.7,893.50 of half of the amount of Provident Fund is involved on account of the grant of Succession Certificate to Sudhir Kumar, ~~NOT~~ ^{NOT being nothing will} ~~cannot be paid to the deponent~~ ~~NOT~~


Durgesh Narain Srivastava
Advocate & NOTARY
In Court of Samadhi Mandir
Nak Nagar, Aish Bagh, Lucknow-4

6. That the deponent urgently requires the payments of the dues of her deceased father for which she has been granted the succession certificate and the amount of Gratuity for which there is no dispute because marriage of the sister of the husband of the deponent has been settled and certain ceremonies in connection with that are to be performed in the 1st half of September, 1989. There is no dispute with respect to those amounts and the respondent is illegally withholding payments of the ~~same~~

Malti Sinha

same. In case the said payments are not made to the deponent immediately the deponent and her husband will suffer an irreparable loss as well as mental torture. The marriage of a girl is a costly affair.

7. That the deponent again declares that there is no dispute for the amount for which the succession certificate has been granted to her and the amount of Gratuity and that she being the only heir of Sri Kanhaiya Lal deceased as his daughter, ^{NOTARY} is entitled to receive the payments.

Malti Sinha

Deponent.

Lucknow:

Dated: Aug. 22, 1989.

VERIFICATION

I, the above named deponent do hereby verify that the contents of paras 1 to 7 of this affidavit are true to my personal knowledge, and that the Annexures no. A-1 and A-2 to this affidavit are true copies of their respective originals.

Sworn and Verified
before me.

Signed and verified on this ^{22nd} day of August,

1989 at Lucknow.

Malti Sinha

Deponent.

I identify the deponent who is personally known to me and who has signed before me.

Ramapati Rao
Advocate.

Malti Sinha

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न्यायालय सिविल जज, मोहन लाल मंज, लखनऊ

उपस्थित : श्री जितेन्द्र श्रीवार्षतव
प्रकीर्ण वाद सं० : 36/198।

... सिविल जज

श्री मालती सिंहा

... प्रार्थी

बनाम

जा० कन्हेया लाल

... विष्णी

प्रकीर्ण वाद सं० : 70/198।

सुधीर कुमार

... प्रार्थी

बनाम

जायदाद क्व० कन्हेया लाल

... विष्णी

नकल निर्णय

प्रकीर्ण वाद सं० 36/8। में श्री मालती सिंहा तथा
प्रकीर्ण वाद सं० 70/8। में सुधीर कुमार ने अपने संख्यक श्री गिर-
धारी लाल के जरिये भारतीय उत्तराधिकार अधि नियम की धारा
-372 के अन्तर्गत अपने - अपने इसमें मूलक कन्हेया लाल पैतृ स्वर्गीय
वासुदेव के नाम जमा रु 22,666.15 के संबंध में उत्तराधिकार प्रमाण
पत्र जारी करने हेतु दावे प्रस्तुत किये हैं। ये दोनों प्रार्थीना पत्र एक ही
विषय - वस्तु व सम्पत्ति के संबंध में है अतः न्यायालय के आदेश
दि० ३.३.८२ द्वारा दोनों मुकदमे समिक्षित कर दिये गये हैं और उनका
निस्तारण इस निर्णय के तहत एक साथ किया जा रहा है।

प्रार्थी श्रीमती मालती सिंहा का कहना है कि वह
मूलक कन्हेया लाल की एक मात्र संतान है और इस तरह मूलक कन्हेया
लाल के नाम जमा स्थियों के संबंध में उत्तराधिकार प्रमाण पत्र पाने
की अधिकारिणी है। उसके प्रार्थना - पत्र पर मूलक कन्हेया लाल
के नजदीकी रिस्तेदारों जिनका उल्लेख उसने अपने प्रार्थना पत्र के पैरा-4
में किया है, ने श्रीमती मालती सिंहा के नाम उत्तराधिकार प्रमाण
जारी करने के संबंध में कोई आप्तित प्रस्तुत नहीं की है बल्कि अपने

Durgesh Narain Srivastava
Advocate & NOTARY
In Front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow
पृथक - पृथक शापथ - पत्रों द्वारा प्रार्थी श्रीमती मालती सिंहा के
उत्तराधिकार प्रमाण - पत्र बनाये जाने की सहमति प्रदान की
है।

प्रकीर्ण वाद सं० 70/8। में प्रार्थी सुधीर कुमार का कहना
है कि वह मूलक कन्हेया लाल का गोद लिया हुआ लड़का है और मूलक
कन्हेया लाल ने उसे अपना विधिक उत्तराधिकारी बना लिया था।

Malti Sinha

क्रमांक 2/

Malti Sinha

R 209

- 2 -

प्रकीर्ण वाद सं 36 / 1981 में सुधीर कुमार की ओर से पी० डब्ल० - 1 एस० बी० सिन्हा व पी० डब्ल० - 2 श्रीमती प्रेमा देवी को पेश किया गया है।

श्रीमती मालती सिन्हा की ओर से डी० डब्ल० - 1 बी० पी० बर्मा व डी० डब्ल० - 2 स्वयं श्रीमती मालती सिन्हा को पेश किया गया है।

मेरे उभय - पत्र के विवान अधिकताओं की बहस सुनी तथा पत्रावली का भली - भाति अवलोकन किया। इस तथ्य पर विवाद नहीं है कि श्रीमती मालती सिन्हा मूलक कन्हया लाल की एक मात्र जीवित संतान है। अतः कानूनी स्पृ से वही मूलक कन्हया लाल की वारिस हो सकती है। लेकिन सुधीर कुमार का कहना है कि वह मूलक कन्हया लाल का दत्तक पत्र है। लेकिन इस संबंध में पत्रावली पर उपलब्ध साक्ष्य किंवास्तीनीय एवं प्रयोग्यता नहीं हैं। कन्हया लाल द्वारा सुधीर कुमार को गोद लेने और सुधीर कुमार के माता पिता द्वारा गोद देने की कार्यवाही के संबंध में भी पत्रावली पर कोई किंवास्तीनीय साक्ष्य नहीं आया है। पत्रावली पर दृष्टिलक्षण भवित्वात्मक अनुभाव पर व्यवस्था का सुधीर कुमार को नहीं कहा जा सकता है कि मूलक कन्हया लाल का सुधीर कुमार को विधिकत गोद लिया था। अतः सुधीर कुमार के दत्तक पत्र होने का तथ्य सही प्रभाषित नहीं होता है। सुधीर कुमार की ओर से रेलवे किभाग से मूलक कन्हया लाल का भक्तिय निधि - नामांकन फार्म तलब कराया गया है, जिसे पी० डब्ल० - 1 एस० बी० सिन्हा लेकर आये हैं और उन्होंने इसे साबित किया है। भक्तिय निधि नामांकन फार्म कागज नं ० सी-२४ है। इसके अवलोकन से स्पष्ट होता है कि मूलक कन्हया लाल ने अपनी भक्तिय निधि के संबंध में अपनी लेहकी श्रीमती मालती देवी व सुधीर कुमार को बराबर बराबर के हिस्सेदार के स्पृ में नामित किया था। इस नामांकन - पत्र की वैधता पर कोई प्रश्न चिन्ह नहीं लगाया जा सकता है। प्रोविडेंट फण्ड एक्ट 1925 की धारा - 4 के अन्तर्गत नामांकन - पत्र में नामित व्यक्ति न्यायालय से वैध उत्तराधिकार प्रमाण पत्र प्राप्त करके प्रस्तुत करने पर मूलक के भक्तिय निधिकी रकम उठा सकता है। मालती सिन्हा का विवाह को खुका है, अतः उसे उक्त अधिनियम की धारा - २१ सी ४ के अन्तर्गत आश्रित व्यक्ति की परिभाषा में नहीं रखा जा सकता है। उक्त परिस्थितियों में भक्तिय निधि नामांकन फार्म के आधार पर श्रीमती मालती सिन्हा एवं सुधीर कुमार मूलक कन्हया लाल के भक्तिय खाते में जमा रकम ₹० १५८७/- के संबंध में समान स्पृ से आधे - आधे हिस्से के बावजूद उत्तराधिकार प्रमाण पत्र पाने के अधिकारी साबित होते हैं। जहाँ तक रेलवे इम्पलाईज इन्डियोरेस स्कीम तथा अप्रयुक्त अवकाश के नगदीकरण की राशि क्रमांक स्पृ ५०००/- व स्पृ १८७९.१५ के संबंध में उत्तराधिकार प्रमाण

M/25/10/19

Durgash Narain Srivastava
A Notary & Notary
In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow - 4

Malti Sinha

क्रमांक: 3/

- 3 -

मालती

पत्र जारी करने का प्रश्न है, उसके संबंध में केवल श्रीमती/सिन्हा का हक बनता है, क्योंकि मूलक कन्हया लाल से नामान्कन केवल भक्तिय निधि खाते के संबंध में किया था। इन राशियों के संबंध में इस्टेट इयूटी क्लीयरेस स्टर्टफिकेट दाखिल किया गया है।

तदनुसार मालती सिन्हा व सुधीर कुमार द्वारा दिये गये प्रार्थना पत्र निस्तारित होने योग्य है।

आदेश

मूलक कन्हया लाल के प्रिविडेंट फण्ड में जमा ₹ 15,787/- पन्द्रह हजार सात सौ सत्तासी रुपये के संबंध में आधे आधे हिस्से के बावजूद श्रीमती मालती सिन्हा पत्नी श्री विनोद कुमार सिन्हा तथा सुधीर कुमार पुत्र गिरधारी लाल के नाम नियमानुसार उत्तराधिकार - प्रमाण - पत्र जारी किया जावे तो रेलवे इम्पल्याइज इन्डियरेस स्कीम में जमा ₹ 5000/- पाँच हजार रुपया तथा अप्रयुक्त अवकाश के नगदी करण की रकम ₹ 1879.15 एक हजार आठ सौ उन्यासी रुपये पन्द्रह रुपये के संबंध में केवल श्रीमती मालती सिन्हा के नाम उत्तराधिकार प्रमाण पत्र जारी किया जावे इस निर्णय की एक एक प्रति दोनों पत्रावलियों में रखी जावे।

Sd. -

जितेन्द्र श्री वास्तव
सिविल जज, मोहन लाल गंज,

लखनऊ १० दिसंबर १९८५

Durgesh Narain Srivastava
Advocate & NOTARY

In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow-4
दिसंबर १०, १९८५

मह निर्णय आज मेरे द्वारा रखुले न्यायालय में हस्ताक्षरित रूपं दिनांकित

करके सुनाया गया।

Sd. -

(जितेन्द्र श्रीवास्तव)
सिविल जज, मोहनलाल गंज
लखनऊ।
Dated १०-१२-८५

सत्य प्रतिलिपि
हृषीकेश शर्मा
२६. ८. ८५

Malti Sinha

429

IN THE COURT OF DISTRICT JUDGE, LUCKNOW.

Regular Civil Appeal No. 22 of 1988.

Smt. Malti Sinha, aged about 33 years,
wife of Sri Vinod Kumar Sinha, residing
in Sandila near Railway Crossing, Tahsil
Sandila, District, Hardoi Plaintiff-Appellant

Versus

Sudhir Kumar, aged about 18½ years,
son of Girdhari Lal, resident of 269/39
Birhana, Lucknow Defendant-Respondent.

Appeal under Section 96 C.P.C. against the
judgment and decree dated 10.12.1987 passed
by Sri Jitendra Singh, V Addl. Civil Judge,
Lucknow in R.S. No.306 of 1985-Smt. Malti
Sinha versus Sudhir Kumar-dismissing the
suit for declaration with costs.

Nature of suit - Declaratory.

Valuation of suit- Rs. 7,893.50

Court fee paid - 100.00

Valuation of appeal- Rs. 7,893.50

Court fee being paid-Rs. 100.00

Am 21/8/88
Durgesh Narain Srivastava

Advocate & NOTARY

In front of Samadhi Mandir Facts in brief.
Tilak Nagar, Aish Bagh, Lucknow-4

Sri Kanhaiya Lal, father of the plaintiff was
residing in house No.269/39, Birhana half of which
was owned by him and half by Sri Girdhari Lal maternal
uncle of the plaintiff. Plaintiff-appellant mother
died when she was 10 years old. Plaintiff-appellant
is the only issue of her parents.

Malti Sinha

2. Sri Kanhaiya Lal was in the employment of the Carriage and Wagon Workshops, Northern Railway, Alambagh, Lucknow. He died on 2.9.1980 leaving the plaintiff-appellant as his only heir. She applied in the court of Civil Judge, Mohanlalganj for grant of succession certificate in respect of the dues of her deceased father. Sudhir Kumar, son of Sri Girdhari Lal also applied for grant of succession certificate in his name alleging himself to be the adopted son of Sri Kanhaiya Lal deceased and also on the basis of nomination made by Sri Kanhaiya Lal for his Provident Fund in the Provident Fund Nomination Form. The relevant entries in the said nomination form are as under:-

Col.1	2	3	4
Name and address of nominees	Nominees relationship if any	Age of nominee	Shares
1. Mrs. Malti Devi	Daughter	24 years	Equal amount for both.
2. Sudhir Kumar	son	10 years	

3. The learned Civil Judge, Mohanlalganj granted succession certificate for half of the amount of Provident Fund in favour of the defendant-respondent. So the plaintiff-appellant filed Regular Suit No. 306 of 1985 against the defendant respondent for declaration that

✓ 10/10
Durgesh Narain ~~Verma~~ ^{Advocate & NOTARY} plaintiff was entitled for that half share also of

✓ 10/10
In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow
plaint she had specifically pleaded that the said nomination was illegal and void. The learned V addl. Civil Judge dismissed the suit and hence the appeal on the following amongst other grounds:

G R O U N D S

Malti Sinha

A. Because the learned court below has erred in holding that the defendant-respondent is entitled for

A31

half of the amount of Provident Fund of Sri Kanhaiya Lal deceased on the basis of the Provident Fund Nomination Form-Paper No. C-49.

B. Because Provident Fund Nomination Form C-49 as filled up by Sri Kanhaiya Lal deceased is null and void on account of mention of a non-existent person ' Sudhir Kumar ' as ' son ' when admittedly he had no son.

C. Because the learned court below has erred in observing that paper No.C-49 is not in dispute while in para 12 of the plaint it has specifically been pleaded that the said paper is wholly illegal and void.

D. Because the finding of the learned court below that Sudhir Kumar mentioned in paper No.C-49 by Sri Kanhaiya Lal deceased as his son is the defendant-respondent based on untrustworthy and oral evidence of DW 1 to DW-3 is wholly illegal and cannot sustain.

E. Because the learned lower court has erred in relying on unreliable oral evidence of D.W. 1 to D.W. 3 given to explain the intention or interpret the contents of C-49 to which they were no parties or witnesses.

Durgesh Narain Prastav
Advocate & NOTARY
In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow.

F. Because the learned court below has acted illegally in interpreting Paper No.C-49 with the help of inadmissible and oral evidence of D.W. 1 to D.W.3.

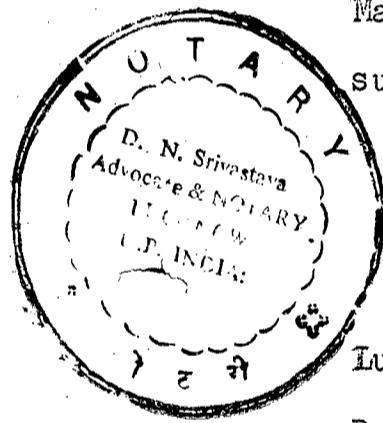
G. Because the learned court below has erred in not framing an issue on voidability of paper No.C-49 and allow the application for amendment of para 18 of relief.

Malhi Sinha

H. Because the nomination paper No.C-49 is also against the provisions of the Provident Fund Act and the plaintiff is entitled for the same under the said Act as dependent of her deceased father.

I. Because in any view of the matter the findings of the learned court below on issues No.2,3 and 4 are against facts and law and are liable to be set aside.

It is, therefore, respectfully prayed that the appeal be allowed and judgment and decree dated 10.12.1987 passed by the learned V Addl. Civil Judge, Lucknow in original Regular Suit No.306 of 1985-Smt. Malti Sinha versus Sudhir Kumar- be set aside and the suit be decreed with costs throughout.



Lucknow:

Sd/-
(Ramapati Ram)
Advocate,
Counsel for the appellant.

Dated: Jan. 29.1988.

N.B. My power is on the file of original suit.


Durgesh Narain Srivastava
Advocate & NOTARY
In front of Samadhi Mandir
Tilak Nagar, Aish Bagh, Lucknow-4

Malti Sinha

def-10

Aug 10 1991

W.P. 1000

W.L. 1
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Alcott, Margaret

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ਦੇ ਪ੍ਰਾਤਿ ਸਿਰਲੇਖਾਂ ਦੇ ਦੱਸੇ ਹੋਏ ਪ੍ਰਾਤਿ ਸਿਰਲੇਖਾਂ
ਦੇ ਦੱਸੇ ਹੋਏ ਹਨ ਜੇ ਅਤੇ ਪ੍ਰਾਤਿ ਸਿਰਲੇਖਾਂ
ਪ੍ਰਾਤਿ ਸਿਰਲੇਖਾਂ ਦੇ ਦੱਸੇ ਹੋਏ ਹਨ।

31/3/21

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(Att. L. 2011)

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सत्य शतिरित
गोपनीय विषय

Capital by = Faraway

Composed by - 31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

A38

CIRCUIT BENCH, LUCKNOW.

Registration (O.A.) No. 187 of 1989(L)

BETWEEN

Smt. Malti Sinha Applicant.

versus

Union of India and others ... Respondents.

Fixed For : 22.12.89

SHORT COUNTER REPLY ON THE BEHALF
OF THE RESPONDENTS :-

I, Rajir Chandra — Working as Dy.C.M.E(W)

— in the office of Deputy Chief Machanical
Engineer (W), C and W shops, Northern Railway,
Alambagh, Lucknow do hereby solemnly affirm
and state as under :-

1. That the official abovenamed is working under
the respondents and is fully conversant with
the facts and circumstances of the applicant's
case and has been authorised by the respondents
to file this short counter reply on the their behalf.

2. That the answering respondents crave leave of this
Hon'ble Tribunal to raise the preliminary objections.

उप मुख्य अधिकारी अधियन्ता (कर्मी)
सचारी एवं माल डिव्ह्या कर्मशाला
८० रो, आलमबाग, लखनऊ

..... 2 ..

PRELIMINARY OBJECTIONS

"Whether this claim petition is maintainable without impleading Union of India as a party"

3. That since the Union of India has not been made party in this case hence this case is not maintainable and is fit to be dismissed for non-impleadment of necessary party.
4. That in compliance with the show cause notice dated 8.9.89 issued by this Hon'ble Tribunal, the answering respondents are arranging to pay to the applicant the half of the provident fund amount whole of Railway employees insurance scheme amount and leave encashment amount of the deceased Kanhaiya Lal in terms of order dated 17.7.85 passed by Civil Judge, MohanLal Ganj, Lucknow.
5. That due to pendency of the Civil Appeal No.22 of 1988, pending before the learned XI Additional District Judge, which was filed by the applicant herself and just to avoid the multiplicity of the litigation the aforesaid amount was not paid to the applicant.

अ. मुख्य यांत्रिक अधिकारी (कर्मी)
सरारी एवं माल दिव्य कर्मशाला,
४० रो, आलमगढ़, लखनऊ

PMO

6. That the payment of the aforesaid amount is already under process.

Lucknow :

Dated :

श्री मुख्य अधिकारी (क्रमी ०)
सचिवालय एवं माल डिव्हिं कर्मशाला,
८० रु०, लालसराग, लखनऊ

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

I, the official abovenamed do hereby verify that the contents of para 1 of this reply is true to my personal knowledge and those of paras 2 to 6 of this reply are believed by me to be true on the basis of records and legal advice.

Lucknow :

Dated :

श्री मुख्य अधिकारी (क्रमी ०)
सचिवालय एवं माल डिव्हिं कर्मशाला,
८० रु०, लालसराग, लखनऊ

ब अदालत श्रीमान..... Central Administrative Tribunal of Allahabad
महोदय
Bench at Lucknow

[वादी] अपीलान्ट

प्रतिवादी [रेस्पान्डेन्ट]



तकालतनामा

वादी (अपीलान्ट)

प्रतिवादी (रेस्पान्डेन्ट)

नं० मुकदमा

The Receiving Chief Engg mechanical engineer this
सन् पेशी की ता०

१९ ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

Naresh Shanker Srivastava

Advocate. Birhampur. Lucknow

वकील

महोदय

एडवोकेट

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

हस्ताक्षर..... *अपील दाखिला*

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक..... महीना..... सन् १९ ई०

स्वीकृत

N.R.

VAKALATNAMA

G.V.3

Before the Central Administrative Tribunal, Allahabad
Sitting at Lucknow

Before

In the Court of

Registration No. 187 of 1989 (1) Plaintiff
Defendant
Fixed for 13-10-89

Smt. Malti Singh

Claimant
Appellant
Petitioner

Versus

Defendant
Plaintiff

The Union of India and
Others

Respondents

The President of India do hereby appoint and authorise Shri... Anil Srivastava, Presenting...

Officer, Lucknow

to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruct Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/Pleader or any Council, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceedings against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or Compromise where by the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate of Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agrees to ratify all acts done by the aforesaid Shri... Anil Srivastava, Presenting

Officer, Lucknow

in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed for and on behalf of the President of Indian this the..... 19

Dated..... 198

For & on behalf of the U.O.I.

N.R.P/R.Rd. (Pb. Bg.), Delhi-35 -11,110/11-8-1986 - 1000 F.

Designation of the Executive Officer

(A.K. Verma)
एम बुल्ल अधिकारी अधियन्ता (कर्मी)
सरारी एवं माल डिव्ह्या कर्मशाला,
८० रो, आकर्षनगर, लखनऊ

एम बुल्ल अधिकारी अधियन्ता (कर्मी)
सरारी एवं माल डिव्ह्या कर्मशाला,
८० रो, आकर्षनगर, लखनऊ

ANNEXURE - A

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

INDEX SHEET

CAUSE TITLE Review 149 of 1991 (U)
in
OA. 187/89

Name of the parties

Smt. Malti Sinha

Applicant.

versus.

Union of India

Respondents.

Part A.B.C.

Sl. No. Description of documents Page

1.	<u>Order Sheet</u>	A1
2.	<u>Judgment-68-591</u>	A2 - A3
3.	<u>Revised Petition</u>	A4 - A8
4.	<u>Amendments</u>	A9 - A12

Bench Copy

B1 - B8

Certified that no further action is required to taken and that
the Case is fit for certification and sent to the record room (D) -

21(A)(C1)

(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Review Appln. No. 179 of 1991(L)

In

Registration O.A. No. 187/1989 (L)

Smt. Malti Sinha Applicant

Versus

Union of India & Others..... Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A.B. Gorthi, Member(A)

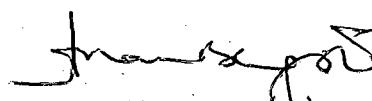
(By Hon. Mr. Justice K. Nath, V.C.)

This is an application under Rule 17 of the Administrative Tribunal (Procedure) Rules, 1987 for a partial review of our judgement dated 6.3.91 in O.A. No. 187 of 1989.

2. The Review Application is confined to a claim of interest on unpaid amount of Provident Fund (half), Insurance Money and Leave Encashment amount totalling Rs. 14,772-65.

3. The O.A. No. 187/89 was filed in respect of the claims for the above amount as also for gratuity. Our judgement would show that the Railway Administrator has no objection to the payment of the amounts in accordance with the orders of the Civil Judge in case a Succession Certificate which arose on account of contest put up by respondent No. 3, Sudhir Kumar claiming to be adopted son of the deceased employee. While disposing of the Original Application we directed the interest to be paid on the gratuity amount but not in respect of the remaining items. The submission

made in this Review Application is that there is no reason why the Railway Administration should also not pay interest on amounts other than the gratuity amount. We do not think that this kind of grievance can be subject matter of a Review Application because a discretion having been exercised by the Tribunal, it cannot be interfered with unless it is found to be erroneous on the record. As already mentioned the Railway Administration had already mentioned that the impediment to the payment of the amount arose on account of the contest put up by Sudhir Kumar while the Railway Administration had no objection to the payment of the amount in accordance with the orders of the Civil Judge in the case for Succession Certificate. So far as the gratuity is concerned, the Railway Administration had no such stand. The distinct stands in respect of these distinct claims persuaded us to award interest on the gratuity amount and not on the remaining amount. In this situation, we see no error apparent on the face of the record calling for interference in review. The Review Application is dismissed.



Member (A)



Vice Chairman

Dated the 8th May, 1991.

RKM

Review An. No. 179/91(C)

in

(A)

O.A. 187/89 (L)

O.R:

A. (M. P.) Review An. No. 179/91(C)

has been filed in O.A. 187/89 (L)

by Shri Ramapati Ram Jd.

counsel for the applicant today.

This case was decided by
the Hon. Bench of the Hon. Mr.

Justice K. Nath, V. C. and

Hon. Mr. A. B. Gorathi, A. M. Jd

6.3.91. Author of the judgement

is Hon. Mr. Justice K. Nath,
V. C.

S. f. o.

✓
S. 4. 91

By Post

6/6/91

Before the Central Administrative Tribunal, U.P., Allahabad
Circuit Bench, Lucknow.

Review Application No. 179 of 1991 (L)

Smt. Malti Sinha

...

Applicant

Vs.

The Dy. Chief Mechanical Engineer(W),
Carriage and Wagon Workshops (N.R.),
Alambagh, Lucknow and others.

...

Opposite Parties.

I N D E X

<u>S.I. No.</u>	<u>Contents</u>	<u>Page Nos.</u>
1.	Memo of application	1 to 4
2.	Annexure No.1 Letter No. 254 C/Pen/10-80 dated 11.3.1981 from Dy. C.M.E. (W)/AMV-LKO to the applicant.	5
3.	Photo stat of the judgement and order dated 6.3.1991 of the Hon'ble Bench passed in Registration Claim Application No.187 of 1989 (L)	6 to 8

filed today
2
5/4/91
Dated : April 5, 1991.

Ramapati Ram
Advocate,
Counsel for the Applicant.

AS

Before the Central Administrative Tribunal, U.P., Allahabad,
Circuit Bench, Lucknow.

Review Application No. 179 of 1991 (L)

(Under section 22 (3) (f) of the Central Administrative
Tribunal Act, 1985)

Smt. Malti Sinha wife of Sri Vinod Kumar Sinha residing in
Mohalla- Sumba Bagh, near S.D.M. Compound,
Sandila, District- Hardoi.Applicant

Vs.

1. The Deputy Chief Mechanical Engineer (W),
Carriage and Wagon Workshops (N.R.), Alambagh, Lucknow.
2. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.

...Respondents 1&2 Opp.
Parties

I N

Registration Claim Application No. 187 of 1989 (L)

Smt. Malti SinhaApplicant

Vs.

The Dy. Chief Mechanical Engineer (W)
and others Respondents

Decided on 6.3.1991

This review application is against the judgement
and order dated 6.3.1991 passed by the Hon'ble Circuit Bench
consisting of the Hon'ble Mr. Justice Kamleshwar Nath, Vice
Chairman and the Hon'ble Mr. A. S. Gorathi, Administrative
member in as much as the said Hon'ble Bench failed to consider
and allow the claim for interest also on the amounts of
Rs. 7,8,93.50 of (General) provident fund, Rs. 5,000/- of
Insurance Scheme and Rs. 1,879.15 of encashment of unutilised
leave of Sri Kanhai Lal deceased, Mistri T.No. 254-C of the
Carriage and Wagon Workshops (N.R.) Alambagh, Lucknow from

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing: 5/4/91
Date of Receipt: 5/4/91
Priority Review (P)
5/4
5/4

the date of his death on 2.9.1980.

2. By letter No. 254 C/Pen/10-80 dated 11.3.1981 of the respondent No.1 the applicant was informed that Rs. 15,787.00 on account of (General) Provident Fund, Rs. 5,000/- on account of Insurance Scheme and Rs. 1,879.15 on account of encashment of unutilized leave, total Rs. 22,666.15 as the dues of her late father Sri Kanhaiyalal on his death on 2.9.1980 would be paid to her on production of the Succession Certificate. A photo stat of the said letter dated 11.3.1981 of the respondent No.1 is being filed as Annexure No. R-1 to this review Application.

3. The applicant filed the succession certificate in October, 1985 for payment of Rs. 7,893.50 as half of the amount of Provedent Fund, Rs. 5,000.00 of insurance scheme and Rs. 1,879.15 on account of encashment of unutilized leave, total Rs. 14,772.65 but the respondent No.1 refused to make payment several times, and hence the claim application was filed. As per paras 6 (8) and 7 of the claim application besides the amount of gratuity the applicant claimed the payment of Rs. 14,772.65 with up-to-date interest.

4. The applicant had also claimed interim relief as per para 8 of the claim application. In reply to the notice to the respondent No.1 as to why he has not paid the amount of Rs. 14,772.65 for which succession certificate was filed the Dy. Chief Mechanical Engineer filed his Affidavit on 2.2.90 in which he in para 4 stated that he was arranging to make payment of the amount in question but no payment made.

(A7)

5. Non of the respondents contested the claims of the applicant and the Hon'ble Bench on 6.3.1991 was pleased to allow the claim petition. But a erroneously failed to consider the claim of the petitioner for interest on the items of the said amount of Rs. 14,772.65 payment of which was deliberatly withheld by the respondents No. '1' & '2';- hence this review application on the following amongst other grounds:-

GROUND

- A. Because the amount of Provident Fund is made up of monthly deductions from the salary of an employee on which compound interest is paid. There is no reason why the interest should be allowed on the amount of the Provident Fund in question till the date of its payment to the heir of the employee after his death.
- B. Because the interest on the amount of Provident Fund is paid by the employer as the same is utilized by him.
- C. Because in any case with-holding of Rs. 14,772.65 by respondents No. 1 & 2 after receipt of the Succession Certificate in October, 1985 was wholly illegal and mala-fide and the applicant is entitled to the interest there on on the rate admissible on the amount of Provident Fund, in justice and equity.
- D. Because non-consideration of interest on the items

(AB)

- 4 -

of Rs. 14,772.65 is an error apparent on the face of record and is liable to be corrected.

P R A Y E R

It is, therefore, most respectfully prayed that this review application may kindly be allowed and the respondents No. 1 & 2 may kindly be directed to pay interest on the items of the said amount of Rs. 14,772.65 at the rate on which the interest is paid on the amounts of Provident Fund till the date of final payment.

It is also prayed that a time limit may also be kindly fixed for payment of the claims of the applicant so that the respondents No. 1 & 2 may not further harass the applicant.

Lucknow:

Dated : April 5, 1991

Ramapati Ram
(Ramapati Ram)
Advocate
Counsel for the applicant

---APPLICANT

5

Annexure No. 1

Regd.

NORTHERN RAILWAY
Office of the Dy.C.M.E.(W), C&W Shops, Alomagh, Lucknow.
No. 254C/Fen/10-80

Dated: 11.3.1981.

Smt. Malti Sinha,
daughter of Late Kanhiya Lal,
ex.T.No.254/C
C/o Shri Vinod Kumar Sinha,
P.C.G.Techician,
Govt. T.B. Clinic,
HARDOI.

Sub:- Payment of final Sett. dues of Late Kanhiya Lal
ex.T.No.254/C.

Ref:- Your application dt. nil.

....

The Payment of the following final Sett. dues in the
above case will be made on production of succession
certificate from the competent Court of Law. Accordingly you
are advised to obtain the above document from the Court and
submit the same to this office for further necessary action.
The action taken for procuring the document may please be
intimated to this office early.

- (1) P. F. assets including Rs. 15787-00 ~~Interest~~.
- (2) Amount payable under Rly. Employees Insurance Scheme
Rs. 5000-00 Scheme.
- (3) Encashment of unutilised leave Rs. 1879-15
(LAP = 65 days).

Family pension is not payable under Family pension
Rules 1964. However, the case regarding payment of
DCRG is being examined separately.

for Dy.C.M.E.(W)/AMV-LKO.

C/- to: Shri Sudhir Kumar, C/o Sri Girdhari Lal, R/o
H.No.269/39, Birhana, Lucknow for information and
similar action. He is however further informed that
the payment of above Sett. dues will only be made on
production succession and Guardianship certificates
from the Court, as his identity as the son of Late
Kanhiya Lal ex.T.No.254/C has been challenged by
Smt. Malti Sinha, daughter of the deceased.

for Dy.C.M.E.(W)/AMV-LKO.

True photo stat attached.
Ganapati Basu
Agro.

Copy of Judgement

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUDHIANA CIVIL BENCH

Registration C.A. No. 187 of 1989(L)

Smt. Malti Sinha Applicant

Versus

Union of India & Others Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. A. B. Gorthi, Member (I)

(By Hon. Mr. Justice K. Nath, V.C.)

In this application under Section 19 of the Administrative Tribunals Act, 1965, the applicant Smt. Malti Sinha has claimed payments of the Provident Fund amount, Insurance Money, Leave Encashment and gratuity admissible to Kankiya Lal, an employee of the Chief Mechanical Engineer's office by reason of his death on 2.9.90. The amounts of Provident Fund and Insurance Money and the Leave Encashment are set out in para (1) of the application. The main contest came from respondent No. 3 who was impleaded under the orders of this Tribunal and who claimed those amounts. It appears that two cases under the Indian Succession Act were instituted by the applicant, as the daughter and heir of the deceased and by respondent No. 3 Sudhir Kumar claiming to be adopted son of the deceased. The two cases were consolidated and heard and disposed of by the Civil Judge, Mohanlalganj, Lucknow by judgement dated 17.7.85 in Misc. Cases No. 36/81 and 70/81. It

Smt. S

(P)

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was held that the present applicant was entitled to 1/2 of the Provident Fund amount and the whole of the Insurance claim and the leave encashment whereas Sudhir Kumar could be entitled to the remaining 1/2 amount of the Provident Fund. That order became final. The Railway Administration has no objection to the payment of these amounts in accordance with the orders of the Civil Judge in the case for Succession Certificate.

2. It appears that the present applicant also filed a Regular Civil Suit No. 306/85 for declaration of the nomination in favour of Sudhir Kumar to be invalid in order to entitle him to receive 1/2 of the Provident Fund amount which was ordered to be paid to Sudhir Kumar by the Civil Judge. In para 6(4) of the application, it is stated that the Suit was dismissed against which an appeal was filed in the Court of District Judge. The counsel appearing on behalf Sudhir Kumar has filed a photo copy of the appellate order dated 5.1.91 by which the appeal was dismissed. The learned counsel for the applicant says that he intends to file a Second Appeal in the High Court. Be that as it may, so far as the record presently stands, Sudhir Kumar is entitled to receive 1/2 of the amount of the Provident Fund.

3. The only other subject matter of controversy is the amount of gratuity. No dispute in respect

Sudh

thereof is raised by Sudhir Kumar. It is admitted by the learned counsel for the applicant that even the gratuity amount was paid to the applicant by a cheque dated 5.3.90; the amount is stated to be Rs.10,928-24. The learned counsel for the applicant says that for reason of delayed payment of the gratuity amount, the applicant ought to be awarded interest.

4. It is not quite clear on what date the applicant laid a claim for the amount of the gratuity. It is also not quite clear as to what are the rates of the interest payable on the gratuity amount. Even so we think that the interest may be awarded as permissible under the law from 1.9.81 which would have provided almost one year's time to the Department to settle the claim of the gratuity amount.

5. This petition is therefore disposed of with a direction that respondents 1 & 2 shall pay to the applicant the amounts payable to her on account of the Provident Fund, the Insurance claim and the leave encashment as determined in the judgement and order dated 17.7.85 of Civil Judge, Mohanlalganj, Lucknow mentioned above and shall further pay the interest to the applicant on the sum of Rs.10,928-24 with effect from 1.9.81 to 4.3.90 at such rates as may be admissible under the applicable statutory provisions.

Sd/-
Member (A)

Sd/-
Vice Chairman

Dated the 6th March, 1991.

RKM

Attested

True Copy

c.t. c.

AKS
7/3/91
Section Vice (Admin.)
Central Administrative Tribunal

Circuit Bench

Eugene

7/3/91

True Photo Stat Attested

Ramapati Rao

Advocate

5/4/91