

Central Administrative Tribunal

Lucknow Bench

Cause Title

O.A. 223/83(1)

Parties

Smt. Ptarm Jaidid & others
vs
U.O. J. Bhatnagar

Respondents

Part A.F.C.

Sl. No

Description of Documents

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Check list

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Final Judgement

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Petition Copy

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Annexure

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Counter Affidavit

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Rejoinder Affidavit

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B- File

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C- File

~~*A-1 to A-27*~~

Costs find that no further action is required to be taken and that the case is fit for assigned work for to the record room (D)

Recd on 06-12-12

Agent
SO (C)

(3)
A-6

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

Original Application No. 229 of 1989

1. Smt. Ram Janki . . .

2. Lakhan Singh Yadava Applicants

Versus

Union of India and three others Respondents

Hon'ble Mr. S.N. Prasad, Member (Judicial)

The applicants have approached this tribunal under section 19 of the ~~XXXXX~~ Administrative Tribunals, Act, 1985 with the prayer for directing the respondents to give family pension and other consequential monetary benefits to the applicants and for further directing the respondents to give employment to the applicants on compassionate ground and after setting aside the impugned order dated 19.4.1988 passed by the respondent no. 3 (D.R.M.N. Railway, Moradabad).

2. Briefly, stated the facts of this case, interalia, are that the husband of the applicant no. 1 Smt. Ram Janki and father of the applicant no. 2 Lakhan Singh Yadava, namely deceased Sri Udan, who was employed as Regular Gangman under P.W.I. Hardoi and Assistant Engineer N. Railway, Hardoi, died in harness on 24.1.1972. After the death of aforesaid deceased Sri Udan, the applicants approached the authorities concerned ~~for their pension~~, but nothing ~~has been~~ materialised in their favour and ultimately the claims of the applicants have been turned down by the respondent no. 3 vide his order dated 19.4.1988 contained in (Annexure A-1), Feeling aggrieved against the same, the applicants have approached this tribunal.

3. The respondents have resisted the claim of the applicant, with the contentions, interalia, that the Railway Employees Insurance Scheme commenced from 1.6.1977, whereas the aforesaid deceased Sri Udan died on 24.1.1972, i.e. much before the commencement of the aforesaid Scheme

AS

:: 3 ::

about three years old, and has further argued that he attained majority on 25.1.1987 and thus, this being so, and keeping in view the principle of law as enunciated in Sushma Gosain¹ case by the Hon'ble Supreme Court, the impugned order dated 19.4.88 (Annexure A-1) which is not a reasoned and speaking order should ~~xxxxxxx~~ be quashed and the point of limitation is not fatal in this case, as after attaining the majority, the applicant no. 2 Sri Lakhan Singh Yadava's claim was submitted to the authorities concerned and as such the claim of the applicant no. 2 is not barred by limitation, and has further argued that the applicant no. 2 Sri Lakhan Singh Yadava may be given employment commensurate with his educational qualification and physical fitness without any further delay and suitable directions to this effect should be issued to the respondents.

7. This is noteworthy that a perusal of para 7 of the reply of the respondents shows that according to their own admission, the father of the applicant no. Udan died on 24.1.1972. This is also noteworthy that perusal of Annexure-8, which is photostat copy of the marks-sheet of High School Certificate read together with para 4.12 and para 4.13 of the application reveals that the date of birth of the applicant no. 2 is 25.1.1969 and as such he attained majority on 25.1.1987 and thus this being so, and keeping in view ~~xxx~~ all the facts and circumstances of the case and the material on records it becomes obvious that the claim of the applicant no. 2 Sri Lakhan Singh Yadava is not barred by limitation. In the case of Smt. Sushma Gosain and others (Appellants) Vs. Union of India and others (Respondents) reported in A.I.R., 1989 Supreme Court, 197

(A-1)

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wherein it has been enunciated that :-

" It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant."

8. I have perused the above ruling.

9. Having considered all the view points and all circumstances of the case, I find it expedient that the ends of justice would be met if the respondent no. 3(D.R.M.,N. Railway,Moradabad) is directed to re-consider the matter regarding giving employment to the applicant no. 2 Sri Lakhan Singh Yadava on compassionate ground by reasoned and speaking order and keeping in view the above principles of law as enunciated by the Hon'ble Supreme Court and to give employment to the applicant no. 2 Sri Lakhan Singh Yadava commensurate with his educational qualification and physical fitness within a period of three months from the date of receipt of the copy of this judgement, provided he is found suitable fulfilling the eligibility criteria; and I order accordingly.

10. The application of the applicant is disposed of as above. No order as to costs.



Member (J) 15.4.93

Lucknow Dated: 15.4.1993

(RKA)

(A1)

30/8/89

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 229 of 1989 (C)

APPLICANT(S) Smt. Ram Janaki & 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 ?	(2 sets) Filed
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 out come 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

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<u>Particulars to be Examined</u>	<u>Endorsement as to result of examination</u>
11. Are the application/duplicate copy/ separate copies signed ?	Yes
12. Are extra copies of the application with Annexures filed ?	No
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 ?	Nil
19. Whether all the remedies have been exhausted.	Yes

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

REGISTRATION No. 229 of 1989. (L)

(A3)

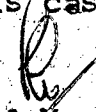

APPELLANT
APPLICANT

Smt. Ram Janki and another

VERSUS

DEFENDANT
RESPONDENT

Union of India & ors.

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
<u>19.9.1989</u>	<p><u>Hon'ble Mr. D.K. Agrawal, J.M.</u></p> <p>Heard Shri A.K. Dixit counsel for the applicant.</p> <p><u>Admit.</u></p> <p>Issue notice to respondents to file counter affidavit within four weeks to which the applicant may file rejoinder affidavit within two weeks thereafter.</p> <p>List this case on <u>21.12.1989 for orders/hearing</u> as the case may be C.M.App.No. 250 of 1989 (L) for joining together is allowed.</p> <p style="text-align: right;">J.M.</p> <p>(rrm)</p> <p><u>Hon' Mr. Justice Kamleshwar Nath, V.C.</u> <u>Hon' Mr. K. Obayya, A.M.</u></p>	
<u>21/12/89</u>	<p>Shri D.C. Saxena counsel appears on behalf of opposite parties and requests for and is allowed four weeks time to file counter to which the applicant may file rejoinder, if any, within two weeks thereafter.</p> <p>List this case for <u>orders on 5-2-90.</u></p> <p style="text-align: center;">  A.M.  V.C. </p> <p>(sns)</p>	<p>o.r. Notice issued 21/9/89</p> <p>OR Notices were issued on 21.9.89. Neither reply nor any unsent reply comes has been received back Submitted to order</p>

See original order on main Petition

O.A. 229/89

2.8.91
D.R.

(AM)

Rejoinder has
not been filed
Applicant to file
it by 9/9/91

Both the parties
are present.

9.9.91
D.R.

counsel for the
applicant is present.
He desires to file
Rejoinder by 15/11/91.

O.P. is absent.

15.11.91
D.R.

5/11

Applicant's side is
present. No appears
for the O.P. Rejoinder
to be filed by appli-
cant on or before
4/2/92.

7.5.92

Applicant is ordered
to file rejoinder by
~~8.5.92~~ 5.8.92

by R

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW

AS

229/89

ORDER SHEET NO. _____

D.A./T.A No _____

OFFICE REPORT

DATE /

ORDER

1-12-92
D.R.

None is present for the parties
Applicant to file rejoinder
by 1-2-93
R

1/2/93

D.R.

None is present for the
Parties. Applicant to file Rejoinder.
List this case on 7/4/93 for
F.H.

OK

S.H.

Date

7.4.93

Hon'ble Mr. S.M. Prasad, J.M.

Sri A.K. Dixit counsel for the
applicant and Sri B.R. Shukla
counsel for the respondents are
present. The counsel for the parties
seek adjournment. List this case
for final hearing 12.4.93

Dated: 12.4.93

Hon'ble Mr. S.M. Prasad, J.M.

Sri B.K. Shukla is present. The
learned counsel for the applicant is not present.
List this case for hearing and disposal on
15.4.93.

J.M.

MANISH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH
LUCKNOW.

Claim No. OA...229...(L) of 1989

Claim For appointment of compassionate
Grounds and Payment of Arrears of Pension
etc. of deceased Railway Servant

Department of N. Railway Central Administrative Tribunal
Circuit Bench, Lucknow

District. HARDOI.

Date of Filing 30/8/89
Date of Receipt by Post

FORM -I
(See Rule 4)

Deputy Registrar (J).

APPLICATION UNDER SEC.19 OF THE ADMINISTRATIVE TRIBUNAL
ACT, 1985.

Smt. Ram Janki and another..

.. Applicants.

Versus.

Union of India & others..

.. Respondents.

Compilation No. I
INDEX

S1. No.	Description of Documents relied upon	Page No.
1.	Memo of claim application	1 to 10
2.	<u>Annexure No. A1</u> Impugned order dated 19.4.88	11
3.	Vakalatnama.	12

Lucknow

Dated 29 August, 1989.

Signature of Applicant

For Use in Tribunal's office

1. Smt. Ramjanki
2. Lakhan Singh Yadava

Date of Filing: 30/8/89
or

Filed through:

Date of Receipt by post: —

Registration No.: 229/89(L).

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

Filed on 30.8.89

Signature
for REGISTRAR.

Noted for

30.8.89

महान सिंह यादव

①
A11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

LUCKNOW.

GA 229/09(1)

1. Smt. Ram Janki aged about 41 years, widow of Late Sri Udan, Ex-Regular Gangman Under P.W.I. Hardoi.
2. Lakhan Singh Yadava aged about 20 years, son of Late Sri Udan.

Both inhabitent of Village Fattepur Post Kachhona,
District Hardoi, at present residing at Village
& Post Raison, Distt. Hardoi.

.. ..Applicants.

Versus.

1. Union of India; through Secretary to Department of Railways, Ministry of Railways, Rail Bhawan, NEW DELHI.
2. General Manager, Northern Railway Hqrs. Baroda House, NEW DELHI.
3. Divisional Rail Manager, N. Railway, MOORADABAD.
4. Asstt. Engineer N. Railway HARDOI.

.. ..Respondents.

DETAILS OF APPLICATION.

1. Particulars of Order against which
application is made.

(i) Order No.	DPO 1465(CV)
(ii) Dated	19.4.88
(iii) Passed by	Divisional Rail Manager, MOORADABAD

(Attached as Anx. A1 in compilation No. I)

2. Jurisdiction of the Tribunal

महाराज सिद्धादत

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A-12

-2-

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

3. Limitation

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

4. FACTS OF THE CASE:

4.1. That applicant no. 1 is widow of Late Sri Udan s/o Sri Gopal and applicant no. 2 is his son born from Union of applicant no. 1 and Late Sri Udan.

4.2. That Late Sri Udan was employed as Regular Gangman under PWI HarDOI under direct subordination of respondent no.4.

4.3. That being a Regular class IV employee (on attaining status of temporary employee) applicant's husband was entitled and contributing to Railway Employees Insurance Scheme, Provident Fund facilities and other identical welfare schemes/Rules as admissible to other similarly placed employees.

4.4. That during the course of his employment and duties Sri Udan was knocked down by 135 up train at Balamau and died.

4.5. That late Sri Udan left behind him applicant No.1, No. 2 aged 3 years at the time of his death and one posthumous daughter born after about 5 months after death of Sri Udan.

लाक्ष्मी सिंद पादत

4.6. That since applicant no. 1 is illetrate and she had to lookafter her tender aged Children, and she was also tortured by her in laws that she had to take shelter with her parents in village and Post Raison. In these hand circumstances she could not apply for her appointment in place of her deceased husband, Her son applicant No. 2 being minor was not eligible to more an application for appointment.

4.7. 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 Schemes 1977.

A True copy of para 2311 Railway Establishment Mannual is attached herewith as Annexure A-2 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 Jang's Book on Railway EstablishmentMannaul) is also reproduced below:-

"Benefits admissible on getting temporary status:

I they will be entitled to all the rights and previlege admissible to temporary Rly.Servants under Ch.XXIII EM viz. Revised scale of pay compentry and local allowance. D.A. MEDICA FACILITIES, leave PF facilities, passes, notice for termination of service and Hospital Leave.They

4
A/W

-4-

will also be entitled to the benefits of D&A Rules. Their service, prior to the date of completion of 120/180 days will not however, count for any purpose like seniority etc. They can carry their leave due to the new post of absorption in regular service. They will however not be brought to permanent establishment till they are selected through regular selection Boards for class IV staff. They will however have a prior claim over others to permanent appointment. Those who join as CL before 25 years of age, may be allowed relaxation of maximum age limit to the extent of their total service.

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

(E(NG)11-78/CL/12 Dt. 14.10.80 ER 190190)"

4.8. That dependents of Railway servants who loses his life in the course of duty or die in harrass are entitled to be appointed on compassionate grounds vide Railway Boards circular letter No. E(NG)11/78/CL/I dated 7.8.83 and various other instructions issued from time to time.

4.9. That normally appointment of compassionate grounds is to be made within period of 5 years from the date of happening of event of death. The Railway Board vide its circular No. E(NG)-II-89/RC 1/73 Dt. 18.1.84 have issued positive instructions that cases of appointment on compassionate grounds should be viewed sympathetically and cases of more than 5 years old may be referred to Board if circumstances warrant consideration.

लालन सिंह पांडे

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A-15

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- 4.10. That Railway Board vide its Circular No.E(NG) II/84/RC 1/172 Dt. 1.3.85 by reviewing its Policy appointment on compassionate grounds have also directed that where the widow can not take up employment Railways Can keep the case for appointment on compassionate grounds open to enable consideration of a minor son when he attains majority.
- 4.11. That applicant no. has been given a sum of Rs.744.89 towards provident Fund and Rs. 7,000.00 towards compensation of death of her husband.No amount of gratuity, Group Insurance and Pension has been paid to her.
- 4.12. That applicant no. 2 on attending Majority on 25.1.87 (Date of Birth being 23.1.89), applied for his appointment on compassionate grounds in place of his father.
- 4.13. That applicant no. 2 passed High School Examination in the year 1988.

A True photocopy of attested Marksheet of High School Examination of 1986 is attached as Annexure A-3.

- 4.14. That all the time officials of Respondents continued to assure applicants about giving appointment, but vide letter No.DPO 1465(Gr.) Dt. 19.4.88 issued by Respondent no. 3 it was ordered that her case can not be considered as it has become Barred by time.

A true photocopy of aforesaid order Dt. 19.4.88 is attached as Annexure A1 (compilation No.I)

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4.15. That after receipt of letter Dt. 19.4.88 applicants contacted office of Respondent No. 3 where she was asked to submit an affidavit, which she submitted on 9.9.88.

A True photocopy of said affidavit Dt. 8.9.88 submitted on 9.9.88 is attached as Annexure A-4.

4.16. That when nothing was heard from the side of Respondents applicant moved another application on 25.10.88.

A True copy of application Dt. 25.10.88 is attached as Annexure A-5.

4.17. That so far Respondents have taken no steps to consider the case of applicants, nor amount of gratuity, Group Insurance and Pension has been paid, nor any response of their representations have been given and matter appears to have been closed sine die.

4.18. That having regards to the circumstances stated above now applicant have been left with no option but to prefer this claim on and amongst other the following:-

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS.

A. Because applicant has a statutory right to be appointed in place of her deceased husband on compassionate grounds who died in harness.

B. Because to keep matter of such appointment pending for such a long time leads to arbitrariness.

7
A-1

C. Because under Chapter XXIII Railway Establishment Mannual and different administrative direction and orders issued by Railway Administration from time to time petitioner is entitled to receive benefits of Provident Fund, Insurance expenses is to meet immediate requirements and family pension etc.

D. Because action of respondents is highly arbitrary ~~malafide~~ and unjust.

E. Because cases of appointment on compassionate grounds should be viewed sympathetically as held by this Hon'ble Tribunal in 1988 UPLBEC 44 Smt. Gayatri Devi Vs. Union of India.

F. Because decision of Respondents to the effect that case can not be considered as it has become Barred by Time is unreasonable and unfair.

6. Details of Remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

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

(i) Affidavit Dt. 8.9.88 Anx. A-4

(ii) Application Dt. 25.10.88 Anx. A-5

No reply has been tendered by Respondents.

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

लाक्षण सिंह पादत

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

8. Relief 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 Udan like amount of 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 and time 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 applicants.

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9. Interim Relief, if any prayed for.

NIL.

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~~ $\frac{DD}{5}$ 629071
2. Date of Postal order/~~Bank Draft~~ 29th Aug. 1989
3. Post Office/~~Bank~~ by which issued. High Court Bench
Lucknow
4. Payable at Post office/~~Bank~~ at Allahabad.

12. List of enclosures:

1. Demand draft/Postal order.
2. Index of compilation No. I
3. Paper Book of compilation No. I

लाभान सिंह पादत

4. Index of compilation No. II.

5. Paper Book of Compilation No. II.

6. Vakalatnama.

Applicants,

1. Smt. Ram Janki

2. Lakhan Singh Yadava

Verification.

LTI Smt. Ram Janki
लखन सिंह यादव

We, Smt. Ram Janki and Lakhan Singh Yadava widow and son of Late Sri Udan inhabitent of village Fattepur, Post Kachhona, presently residing at village & Post Raisen, District Hardoi do hereby verify that the contents of paras 1 to, 4, 6, 7 and 8 are true to my personal knowledge and paras 5, 9, 10 & 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Date: 29.8.89

Place-Lucknow.

लखन सिंह यादव
LTI Smt. Ram Janki

Smt. Ramjanki and others

vs.

Applicant
Opp. Parties.

Union of India and others

Annexure No. A1

(11)
HAI

उत्तर

सं० डी पी ओ/405(सी.टी.)

मंडल रेल प्रबन्धक कार्यालय

दिनांक

14-11-88

मुरादाबाद ।

Smt. Ram Janki
W/o. Udan
Vill + P.O. Raicon.
Dist. - Hardoi

विषय: अनुकम्पा के आधार पर नियुक्ति हेतु प्रार्थना

अनुकम्पा के आधार पर नियुक्ति हेतु आपके आदेश पर विचार किया गया । स्पष्ट है कि नियमनुसार निम्नलिखित कारणों से इसे स्वीकार नहीं किया जा सकता:-

अयोग्यता समय से पूर्व ज्ञात -
व्यक्ति (Time - Barred) 7/1

[Signature]

मुख्य मंडल रेल प्रबन्धक

मुरादाबाद ।

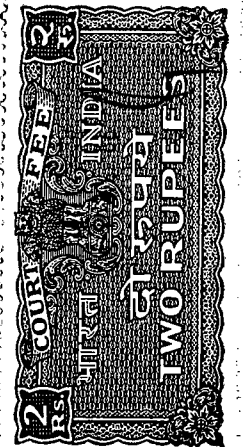
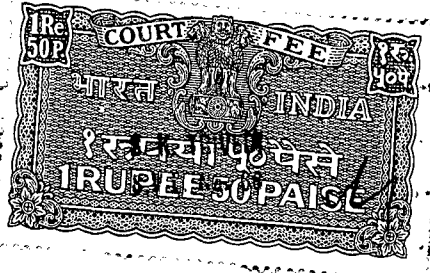
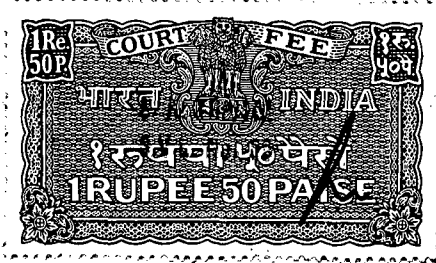
ATTESTED

Abhaya Kumar Mishra

HIGH COURT
LUCKNOW.

लाइन सिस्टम फाइन

वकालत नामा



न्यायालय श्रीमान ... *Central Administrative Tribunal* ... *Circuit Bench Lucknow*

Smt. Ram Janki & Co.

स्मृति ... *Union ... India ...* ... वादी

श्रीमान *ABHAYA KUMAR Dixit* एडवोकेट
Advocate वकील साहब

59/284, old Hyderabad Lucknow

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 करके 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 रसीद लेवे या जिम्मेदारी मुआवजा बाड या पुनर्वास 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 करेंगे हमें स्वीकार होगा और नियत मेहनताना 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 ।

गवाह ... हस्ताक्षर *लखन सिंह यादव* ...

गवाह ... हस्ताक्षर

Accepted
[Signature]

Abhaya Kumar Dixit
Advocate

1973

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH
LUCKNOW.

Smt. Ram Janki and another..

..Applicant.

Versus.

Union of India & others..

..Respondents.

Compilation No.2
I N D E X

Sl. No.	Description of Annexures	Page no.	Remarks
1.	<u>Annexure No.A2</u> Rules of Provident Fund & Gratuity etc.	1-2	
2.	<u>Annexure No.A3</u> High School Mark sheet.	3	
3.	<u>Annexure No.A4</u> Affidavit dt.8.9.88	4	
4.	<u>Annexure No.A5</u> Application dt.25.10.88	5.	

Lucknow:

Dt: 29 Aug. 1989.

30

1. Smt. Ramjanki

2. Lakhon Singh Yadav.

लाखन सिंह यादव

MR CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BRANCH
LUCKNOW
Smt. Ramjanki and Others
Union of India and Others
Applicant
Off. Parties.
Annexure No. A2
①
A2

which the railway servant proceeds on leave subject to a limit of seventy-five per cent of average of pay drawn for the same period, the average running allowances once determined remaining in operation during the remaining part of a financial year in cases of leave not exceeding one month.

- (iii) During leave on half average pay and leave not due the running staff in class III & IV services will draw leave salary equal to half the amount admissible during leave on average pay as mentioned in sub-para (i) and (ii) above respectively.
- (v) The leave salary during commuted leave in the case of class III and class IV running staff will be equal to twice the amount of leave salary admissible on leave on half-average pay under sub-para (iii) above.

2311. Provident fund and Gratuity:-

- (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 16.11.57 and who have opted for P. F. benefits, will not be entitled to any Govt. contribution.
- (2) (i) Subject to what is stated in sub-para (ii) below temporary railway servants recruited before 15th November 1957 under the normal recruitment rules and Temporary Engineers recruited on or after 19th October 1955 but before 16th November 1957 through the Union Public Service Commission, who are discharged from service on account of reduction of establishment or retire on account of permanent incapacity due to bodily or mental infirmity or die in service, are also eligible for gratuity at the usual rate of one fourth of a month's pay for each completed six months period of service. This gratuity shall be offset against the retrenchment compensation, if any, payable under the Industrial Disputes Act. Subject to what is provided in rule 1302 (8)

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Abhaya Kumar Dixit
Advocate

HIGH COURT
LUCKNOW.

ॐ नमो भगवते वासुदेवाय

2
A.G.S.

- (3) (a) A pensionable railway servant (other than a workshop or a shed employee who has completed 3 years' continuous service) who quits service or after 1st November 1959 without being confirmed may be granted a terminal gratuity if he quits service on account of retirement on superannuation or permanent incapacity due to bodily or mental infirmity or discharge from service arising directly or indirectly from a reduction of establishment and the family of such a railway servant may be granted a death gratuity if he dies while in service, on the following scale : —

Completed years of service at the time of quitting service.	Terminal gratuity	Death Gratuity
One year or more but less than 3 years.	Nil	1 month's pay.
3 years or more but less than 5 years.	Half a month's pay for each completed year of service in excess of 3 years' service.	3 months' pay.
5 years or more.	One month's pay for the first 3 completed years' service plus half a month's pay for each subsequent completed year's service.	Equal to terminal gratuity as in the previous column subject to a minimum of 4 months' pay.

Provided that (1) the grant of the terminal/death gratuity shall be subject to the provision of the rule 2534 (C.S. R. 470)- R. II and (2) the retrenchment compensation, if any, payable under the Industrial Disputes Act, 1947, will be offset against the terminal/death gratuity payable under these orders.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BRANCH
LUCKNOW

Smt. Ranjanki and others

vs.

Applicant
off. Post.

Union of India and others

Annexure No. A3

3
770

१९८६-हाई स्कूल परीक्षा अंक पत्र											
माध्यमिक शिक्षा परिषद्, उत्तर प्रदेश, द्वारा भर्चाना १९८६ की हाई स्कूल परीक्षा में निम्नलिखित परीक्षार्थी द्वारा प्राप्त अंकों का विवरण :-											
अनुक्रमांक	परीक्षार्थी का नाम	जन्मतिथि	वर्ग	क्रमांक							
0390662	LAKHAN SINGH YADAV	25-01-69	A	10/19476							
विद्यालय/केन्द्र का नाम					परीक्षा प्रवर्ग, संस्था/व्यक्ति						
JANTA I COLL KACHHAUNA HARDOI					FULL-EXAM REGULAR						
विषय	अधिकतम अंक	अंक	विषयानुसार प्राप्तांक							सम्पूर्ण योग एवं परीक्षाफल	
			भाषा	इतिहास	भूगोल	संस्कृत	अंग्रेजी	गणित	प्रयोग		प्रश्नोत्तर
HINDI	100	33	19	24	14					057	260.
SANSKRIT	100	33	17	19						036	PASSED
MATHEMATICS-ONE	100	24	24	01						025	3RD-DIV.
SCIENCE ONE	100	33	16	10	10					036	GRADE-3
SOCIAL SCIENCE	100	33	24	24						048	ME-D
ECONOMICS	100	33	22	30						052	
<p>आचार्यता के हस्ताक्षर दिनांक प्रधानाचार्य के हस्ताक्षर दिनांक</p> <p>Attested Shanker Singh 12-7-87</p> <p>लाक्षावसिंह पादरा</p>											

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Abhaya Kumar Dixit

Advocate

HIGH COURT
LUCKNOW.

Smt. Ramjanki and others

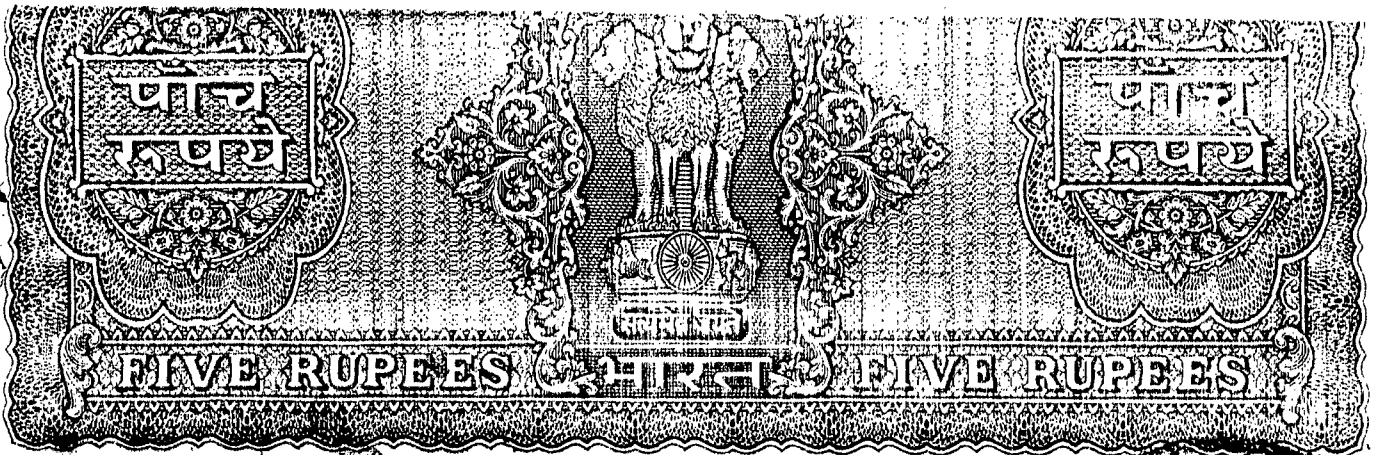
VS.

Applicant

Union of India and others

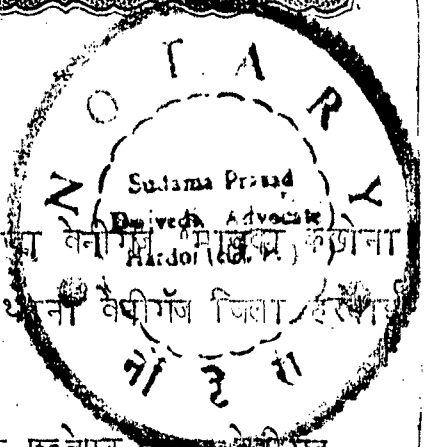
Opp. Parties.

Amusement No. 44

4
A-27

श्रीमान मण्डल रेल प्रबन्धक (डी०आर०एम०)
उ०रे० मुरादाबाद ।

शपथपत्र



मैश्रीमती रामजानकी पत्नी श्री उदन मृतक नि० फत्तेपुर थापा केनोमी, मावड़ा, कौनारा
जिला हरदोई मौजबा पता श्री मैक भाई निवासी रैसो थाना केपीगंज जिला हरदोई
सशपथ कथान करती हूँ कि

किया

1-यह कि शपथी के पति श्री उदन पुत्र श्री गोपाल निवासी फत्तेपुर थापा केनोमी, गंज
जिला हरदोई गैंगमैन के पद पर 14 नवम्बर को गैंग में वालामठ रेलवे स्टेशन पर तैनात थे
और पी० डब्लू० आई० हरदोई उ०रे० के मातहत कार्य कर रहे थे।

2-यह कि शपथी के पति श्री उदन की मृत्यु दिनांक 24-1-1972 को जब वह अपनी
ड्यूटी दे रहे थे कि 135 अप ठ देन ने उनके अकाल मृत्यु देदी ।

3-यह कि शपथी और शपथी के पति से पैदा सभी पुत्र उनकी मृत्यु के समय नावालिग
थे।

4-यह कि मेरा सबसे बड़ा लड़का श्री लाखान पुत्र श्री उदन की उम्र सरकारी नौकरी के
लिए 18 वर्ष से अधिक हो गये है आज मेरे उक्त पुत्र की उम्र 18 वर्ष 6 माह हो चुकी है।

5-यह कि शपथी का उक्त लड़का 12 उत्तीर्ण है और कानून के क्षेत्र में पूर्ण
व्यस्त है।

6-यह कि शपथी के उक्त पुत्र लाखान के अलावा लड़की और है। लाखान से शपथी का
पूरा विश्वास है कि वह अपनी बहन और मुझ माता का भारणोपाधन करेगा ।

7-यह कि शपथी के लड़के लाखान के अलावा परिवार की देखरेख करने का भार मेरी है।

8-यह कि शपथी अपने लड़के को पिता के स्थान पर पुनः देखरेख करते देखने में तैयार है।

9-यह कि शपथी ने जो कुछ लिखा है वह सत्य है और जो कुछ लिखा है वह सत्य है और जो कुछ लिखा है वह सत्य है
गलत लिखाया है शपथपत्र पढ़ाकर इस विषय में लिखा गया सभी विषयों में सत्य है
मेरी मदद करें ।

मै शपथी को जानता हूँ

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शपथी

इन्होंने अपनी ओर मेरे सामने
20/10/72
S.E. 1/1/72

Abhaya-Kumar Dixit

Advocate

HIGH COURT
LUCKNOW

आज्ञा कि पाद

Smt. Ramjanki and Others
Union of India and Others

VS.

Applicant
off. parties.

Amusement No. 45

(3)
7-28

सेवा में,

श्रीमान मण्डल रेल प्रबंधक महोदय,
उत्तर रेलवे, मुरादाबाद।

श्रीमान जी,

निवेदन है कि प्राथिनी के पति श्री उदन पुत्र श्री गोपाल
पी० डब्लू आई० एस्कोई के अधीन रेगुलर गैंग मैन के पद पर कार्य कर
रहे थे। ड्यूटी करते हुये वह बालामऊ में गाड़ी से कट कर 24-1-72 को
मर गये। उस समय प्राथिनी और उसका लड़का लाहान उमर 3 साल का
था। प्राथिनी के पति के मरने के 5 महीने बाद एक लड़की हुई थी।
प्राथिनी गैर पढ़ी लिखी और परिवार में छोटे-छोटे बच्चों का भार
होने के कारण नौकरी करने में मजबूर थी। प्राथिनी को उसके देवर
जेठ ने दार से भागा दिया। प्राथिनी को कम्पेन्सेशन का पैसा मिला,
लेकिन पेन्शन नहीं मिली। प्राथिनी को 19-4-88 के आदेश द्वारा
नौकरी देने से इन्कार कर दिया गया परन्तु फिर उसको रखा गया।
उस लड़के को उमर के लिये दरफनामा दे जो उसने 8-9-88 को मिला कर
दे दिया। तब से आज तक कोई जवाब नहीं मिला है। जब प्राथिनी का
लड़का नाबालिग था तो वह बच्चे नौकरी के लिये देखवास्त देता।

अतः प्राथिनी है कि प्राथिनी को पेन्शन दी जाय जो
उसके लड़के लाहान को उसके मृतक पिता उदन के स्थान पर नौकरा को दिया
अति कृपा होगी।

प्राथिनी,

दिनांक-25-10-88

नि० अ० रामजान की
बेला उदन, ग्राम फत्तेपुर
लाहन सिंह पापत

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High Court
Lucknow

A-99

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

WRITTEN STATEMENT

ON BEHALF OF THE RESPONDENTS

IN

Registration Case No. ²²⁹~~229~~(L) of 1989.

Smt. Ram Janki and others..... Petitioner

Versus

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

Written Statement on behalf of the
Respondents.

1. That I am serving as Divisional Personnel Officer, Northern Railway, Moradabad and have been authorised and deputed to file the present Written Statement.
2. That I have read and understood the contents of the above-noted Registration case and am in a position to give a para-wise reply.
3. That Paras 1 & 2 of the petition need no comments.

Recd. Duplicate

1/1/89

Ms.
J.P. Kesari
6/4/90

महडल कार्मिक अधिकारी
उत्तर रेलवे - मुरादाबाद

A30

4. That Para 3 of the petition is not admitted. It is further stated that it is absolutely wrong to allege that the petition is within the limitation. The petition in fact is highly belated.

5. That Para 4 (1) of the petition needs no comments.

6. That the contents of para 4 (2) of the petition need no comments.

7. That the contents of para 4 (3) of the petition are not admitted and the same are denied. It is further pertinent to mention that the Railway Employees Insurance Scheme commenced from 1.5.1977. The deceased employee expired on 24.1.72 i.e. much before the commencement in the Scheme and this being so the question of contribution towards Railway Employees Insurance Scheme does not arise at all.

8. That the contents of para 4 (4) of the petition need no comments.

9. That in reply to the para 4 (5) and 4 (6) of the petition it is stated that for want of knowledge the answering respondents are not in a position to offer any comments.

10. That in reply to the para 4 (7) of the petition it is stated that the petitioner has misconstrued the relevant provisions which as they stand are not

महडल कार्मिक अधिकारी
उत्तर रेलवे - मुरादाबाद

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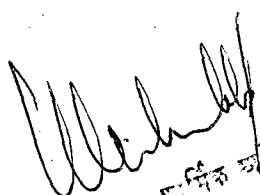
^{able}~~appropriate~~ ^{to the instant case.} Suitable and relevant reply regarding the legal position will be given at the time of arguments.

11. That in reply to para 4 (8) of the petition it is stated that there exists a Scheme for appointment on compassionate ground but such appointment cannot be claimed as a matter of right.

12. That in reply to para 4 (9) of the petition it is stated that the wards of the deceased employees can be considered for appointment on attaining maturity provided the case is not more than ten years ~~ten years~~ old from the date of the death of the employees and the request is made within a maximum period of six months from the date the ward becomes major. Further reply will be given at the time of argument.

13. That the averments made in para 4 (10) of the petition as they stand are not admitted. As already stated above appointment on Compassionate ground cannot be claimed as a vested right.

14. That the averments made in para 4 (11) of the petition as they stand are not admitted. As already stated and explained in para 7 of the Written Statement the Railway Employees Insurance Scheme came into existence with effect from 1.6.1977. The deceased employee expired on 24.1.72 i.e. much before


पण्डित रामचंद्र अधिकारी
उत्तर रेलवे - मुरादाबाद

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the Commencement of Insurance scheme and this being so the question of payment of any amount on account of Railway Employees Insurance does not arise. It is further relevant to mention that the Family pension was passed vide P.P.A. No.72/Pen/B/149/MB dated 21.10.72 and Gratuity was also passed vide P.No.No.30 dated 21.12.72. An intimation to this effect was also given to Smt. Ram Janki vide letter No.E/7/72/Pension/1121 dated 28.12.72.

15. That in reply to para 4 (12) of the petition it is pointed out that the date of birth "23.1.1989" is prima facie incorrect. It is further pointed out that Smt. Ram Janki widow of late Shree Udan requested for appointment of her son Lakhan Singh Yadav in February 1988 when the above named became 19 years of age. As per rules the wards can be considered for appointment on attaining majority within ten years from the date of death provided the request for such appointment is made within 6 months from the date such ward attains majority. However the present case was more than ten years old in 1988 and as such the matter was time barred.

16. That the contents of para 4 (13) of the petition need no comments.

17. That in reply to para 4 (14) of the petition it is stated that as already stated in para 15 of this Written Statement the wards of the deceased

पञ्चल वार्ड अधिकारी
उत्तर रेल-मुरादाबाद

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employee can be considered for appointment on attaining majority within ten years from the date of death of the employee. In the present case the request was made in 1988 and hence the matter was barred by time.

18. That the contents of para 4 (15) and 4 (16) of the petition are matter of record, hence need no reply.

19. That the averments made in para 4 (17) of the petition are incorrect and the same are denied. As already explained the alleged claim for appointment on Compassionate ground is not made out and such claim is time barred. As stated in para 14 of this Written Statement the Family Pension of the deceased was passed vide P.P.A. No.72/Pen/B/1409/MB dated 21.10.72 and Gratuity was also passed vide P.N.No.30 dated 21.12.72 and intimation to this effect was also given to Smt. Ram Janki vide letter No.E/7/72/Pension/1121 dated 28.12.72. The Group Insurance Scheme was not in force at the relevant time and as such the question of payment does not arise at all.

20. That in reply to the para 5 of the petition it is stated that the grounds taken are wholly misconceived and none of the grounds taken are tenable. The petition is devoid of merits and is liable to be dismissed. The detailed reply in respect of legal position will be given at the time of arguments.

महल कर्मिक अधिकारी
उत्तर रेलवे - मुरादाबाद

A3u

21. That paras 6 and 7 of the petition need no comments.

22. That the averments made in para 8 of the petition are not admitted. The petitioner is not entitled for any of the reliefs prayed for. The petition merits dismissal.

23. That the petition is highly belated and is liable to be dismissed on ground of laches alone.

24. That the present petition being on behalf of two petitioners is not maintainable in view of the provisions contained in Rule 4 (5) (a) of Central Administrative Tribunal (Procedure) Rules 1987.

25. That the petitioners have sought plural remedies which is not permissible in view of the prohibition laid down in Rule 10 of Central Administrative Tribunal (Procedure) Rules 1987.

26. That the petition is devoid of merits and is not legally maintainable.

VERIFICATION

I, Urvilla Chhibbar serving as Divl. Personnel Officer, Northern Railway, Moradabad do hereby verify that the contents of paras 1 & 2 of this written Statement are true to my personal knowledge, paras 3, 5, 6, 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, 19 and 21 are verified from record and paras 4, 10, 13, 20, 22, 23, 24, 25 and 26 are verified from legal advice.

Place: Moradabad

Divl. Personnel Officer,
Northern Railway, Moradabad

Dated: 27-3-1990

for Respondents. - मुरादाबाद

SPECIAL POWER OF ATTORNEY

In the court of central Administrative Tribunal
Addl Circuit bench Lucknow
Regn No 229/88

Smt Ram Janaki & others

Plaintiff
Appellant
Petitioner

Versus

Union of Indic & 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
one by virtue of these presents.

In witness whereof I herein to set my hand this
day of _____ 19____

(S.N. Pandey)

Northern Railway

Divl. Rly. Manager
Northern Railway
Moradabad

Accepted
B.K. Shukla
Advocate

A-26

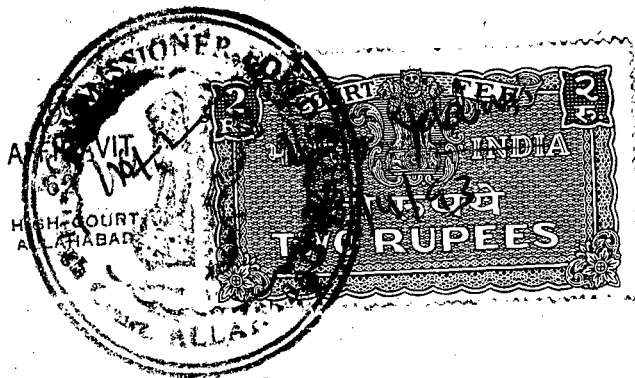
In The Central Administrative Tribunal, Lucknow Bench
Lucknow.

Rejoinder Affidavit on behalf of Applicants

Inre

O.A.No. 229 - 89(L)

Fixed on 23.11.90.



Smt. Ram Janki and another Applicants.

Vs.

Union of India & oths. Respondents.

A F F I D A V I T

I Lakhan Singh Yadva aged about 21 years son
of Late Sri Udan, presently residing at village & Post
Raïson Distt. Hardoi, do hereby solemnly affirm and
state on oath as under :-

- 1- That deponent being applicant No. 2 is fully
conversant with the facts of case. He has got read and
understood the contents of written statement filed on
behalf of Respondents.
- 2- That contents of paras 1 and 2 of written statement
(hereinafter referred as WS) need no reply.
- 3- That contents of para 3 of WS need no reply.
- 4- That contents of para 4 of WS are denied.

Since impugned order has been passed on 19.4.88
(as per admitted position of para 1 of claim petition),
question of claim being time barred does not arise



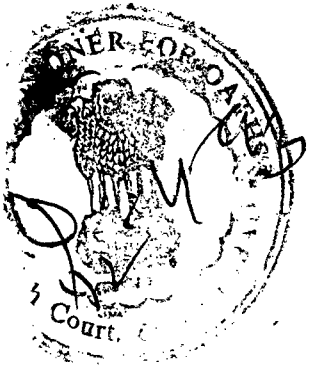
L.T.

15.4.97

लाखन सिंह यादव

A35

- 5- That contents of para 5 of WS need no reply.
- 6- That contents of para 6 of WS need no comments.
- 7- That contents of para 7 of WS are not admitted as written. Even if Railway Employees Insurance Scheme is not applicable, the mother of deponent was entitled to Provident Fund and Gratuity as per mandatory provision of para 2311 of Railway Establishment Manual, which position has not been even denied by respondents.
- 8- That contents of para 8 of WS need no reply.
- 9- That contents of para 9 of WS are not admitted. In view of admission by Respondents with regard to reply of para 4.1 of claim petition, the contention of Respondents that with regard to facts stated in para 4.5 of claim petition, they have no knowledge, is incorrect.
- 10- That contents of para 10 of WS are denied and facts stated in relative paras of claim petition (i.e. para 4.7) are re-iterated to be correct.
- 11- That contents of para 11 of WS are not admitted and facts stated in para 4.8 of claim petition are re-iterated to be correct.
- 12- That contents of paras 12 to 14 of WS are not admitted as written and facts stated in relative paragraphs of claim petition are re-iterated to be correct.
- 13- That in reply to para 15 of WS it is submitted that as a matter of fact date of birth of applicant No. 2 is 25.1.69 and not 23.1.89 which is due to inadvertent Typing error. Unquestionable proof of Date of Birth as 23.1.69 i.e. copy of Mark Sheet of High School examination has been filed as annexure A 3 which is admitted in para 16 of WS. The instructions of Railway



ल. र. न. सि. द. य. द. न.

A38

Administration that one should apply within 6 months from date of attaining Majority is highly unjust and position which exists at present has been illustrated in Railway Board's Circular No. E(NG) II/84/RC-1/172 Dt. 1.3.85.

A true copy of aforesaid Circular is attached as Annexure R 1 with this Rejoinder Affidavit.

14- That contents of para 16 of WS need no reply.

16- That contents of para 17 of WS are not admitted as written. In view of latest circular of Railway Administration files as Annexure R 1 claim is not at all time barred. Moreover deponent applied for job after completion of High School.

17- That contents of para 18 of WS need no comments.

18- That contents of para 19 of WS are not admitted as written.

19- That contents of para 20 of WS are denied. Deponents have got a valid and legal claim.

20- That contents of paras 21 of WS need no reply.

21- That contents of para 22 of WS are denied. Both the applicants are entitled for the reliefs as prayed.

22- That contents of para 23 of WS are denied. Deponent could have no cause of action to file the present claim till same was refused by Respondents and the refusal order was passed only on 19.4.88 (Anx A 1) and claim petition filed on 30.8.89 is perfectly well within time.

...4/-



नारद सिंह दादव

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23- That contents of para 24 of Ws are not admitted. Since cause of action is common and application under Rule 4(5) of CAT Rules was moved and allowed along with the claim petition.

24- That contents of para 25 of WS are denied. Reliefs prayed are connected and arise out of one and same event and are consequential in nature.

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

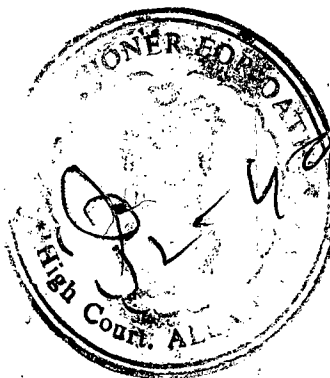
2k5
Dated
12-4-93

Deponent.

लखन सिंह यादव
(Ram Lakhan Singh)

VERIFICATION

I deponent named above do hereby verify the content of paras 1 to 24 of this affidavit to be true from my own knowledge. No part of it is false and nothing material has been concealed so help me God.



2k5
Dated
12-4-93

Deponent.

लखन सिंह यादव
(Ram Lakhan Singh)

I know and identify the deponent who has signed on this affidavit in my presence.

A K Dixit
Advocate.

Solemnly affirmed before me by Sri Lakhan Singh deponent on 12 day of April 1993 at 11-15 a.m., who identified by Sri A K Dixit, Advocate High Court Lucknow. I have satisfied myself by examining the deponent that he understands the contents of this affidavit which have been read out and explained by me to him.

N. D. ADVOCATE
OATH COMPLETION SIGNER
High Court Lucknow, Bench Lucknow
No. 6711
Date 12-4-93

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In The Contract Administrative Tribunal Lucknow Bench

2007 Ram Jenki and others - - - - - Applicants

Union of India vs - - - - - Respondents

R.B.E. No. 66/85

81

R.B.E. No. 65/85

Subject: Appointment on compassionate grounds.

No. E(NG) II/84/RC I/172, dated 1-3-1985

Attention is invited to para 2 of this Ministry's letter No. E(NG) III/78/RC I/1, dated 30-4-1979 in which it has been laid down that in the case of staff who die in harness appointments on compassionate grounds can be made only of a son/daughter/widow of the employee. It has been added that where the widow cannot take up employment and the sons/daughters are minor, the case may be kept pending till the first son/daughter becomes a major i.e. attains the age of 18 years or for a period of five years from the date of death of employee, whichever is earlier.

2. The Ministry of Railways have had occasion to review this provision in the light of a suggestion made to them that the existing rule which permits a case being kept open where the widow cannot take up employment only till the first son/daughter becomes a major needs to be modified as there could be cases where it may be necessary or it would be appropriate, for employment on compassionate grounds being offered to a ward younger than the eldest among the minor sons/minor daughters.

3. The Ministry of Railways have now decided that where the widow cannot take up employment Railways can keep the case for appointment on compassionate grounds open to enable consideration of appointment of a minor son when he attains majority, even though at the time of occurrence of the event making compassionate appointment permissible, there is a daughter who has attained majority and/or a major son who is already employed. This will be subject to the following conditions :-

- (i) The minor son to be appointed will be attaining majority of age within a period of five years of the event of death which is the basis for appointment on compassionate grounds.
- (ii) Where there is more than one minor sons, it is only the eldest minor son who should be considered for appointment when he attains majority and not any of the minor sons.
- (iii) Further, in such cases, the competent authority should be satisfied about the bonafides of the request of the widow or if there is no surviving widow of the family, that appointment should be given to a minor son (when he attains majority) instead of a daughter or an employed son who is already a major.

4. These instructions will have prospective effect. Past cases, if any, decided otherwise, will not be reopened.

लाखन सिंह यादव

