

Central Administrative Tribunal

Lucknow Bench

Case No. 223/83(1)
Date: 20/10/1993

Parties: Plaintiff: Shri Jagdish Chandra
Applicant: 4.9. Sethi

Respondents

Part A.P.C.

Sl. No. Description of Documents Page

1. Check list — A 1 to A 2

2. Order sheet — A 3 to A 5

3. Final Judgement — A 6 to A 9

4. Petition Copy — A 10 to A 20

5. Annexure — A 21 to A 23 to A 28, A 40

6. Power — A 22 to A 35

7. Counter affidavit — A 39 to A 34

8. Rejoinder Affidavit — A 36 to A 39

By File A 1 to R 39

Co-File

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

Page
505

checked
on 06/11/93
by [unclear]

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 ~~XXXXXX~~ 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, inter alia, 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 compensation~~, but nothing ~~has been~~ materialised in their favour and ultimately the claims of the applicant 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, inter alia, 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.

(A)

:: 2 ::

and thus this being so, the question of contribution towards Railway Employees Insurance Scheme does not arise at all. It has further been contended that the wards of the deceased employees can be considered for employment on attaining majority provided ~~the case~~ is not more than ten years old from the date of death of the employee and the request is made within 6 months from the date the ward becomes major, and as such the claim of the applicant is barred by time and in view of the above circumstances, the applicants are not entitled to any reliefs.

4. Rejoinder-affidavit has been filed by the applicants ~~which has been filed by the~~ ~~respondents~~ wherein almost those very points have been stated as set out in the original application.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant has not pressed relief regarding family pension and other monetary benefits. He has further vehemently pressed the point regarding appointment of the applicant no. 2, Lakhan Singh Yadava, who is a younger ~~man~~ and who has passed his High School Examination in the year 1986, as would be obvious from the perusal of Annexure-A-3, which is photostat copy of the marks sheet of the High School Examination and has argued that the claim of the applicant no. 2 regarding giving employment to him on compassionate ground according to his educational qualification and suitability ~~which~~ ~~case~~ is not barred by time as his date of birth is 25.1.1969 and at the time of death of his father, he was

Contd..-3

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 Gosain 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 ~~or should~~ ~~xxxxxx~~ 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

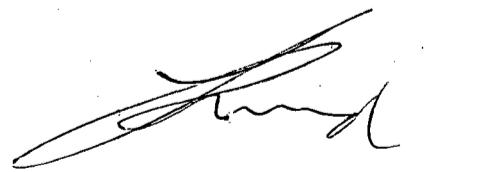
(A)

:: 4 ::

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)

(P)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

30/8/89

Registration No. 229 of 1989 (C)

APPLICANT(S) Smt. Ram Sanki & Others

RESPONDENT(S) Union of India & Others

<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 ?	(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 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 paging done properly ?	Yes
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ?	Yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ?	No

A2

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare 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)

APPELLANT
APPLICANT

Smt. Ram Janki and another

DEFENDANT
RESPONDENT

VERSUS

Union of India & ors

Trial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
19.9.1989 <i>See magical order on main Petition</i>	<p>Hon'ble Mr. D.K. Agrawal, J.M.</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 21.12.1989 for orders/hearing as the case may be C.M.App. No. 250 of 1989 (L) for joining together is allowed.</p> <p>J.M.</p> <p>(rrm)</p> <p>Hon' Mr. Justice Kamleshwar Nath, V.C. Hon' Mr. K. Obayya, A.M.</p>	<p><i>our notice issued 21/9/89</i></p>
21/12/89	<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 orders on 5-2-90.</p> <p>A.M.</p> <p>(sns)</p> <p>V.C.</p>	<p><i>OR Notices were issued on 21.9.89 Neither reply nor any unserved copy has been return back submitted to order</i></p>

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 15/10/91.

O. P. is absent.

15.11.91
D. R.

Applicant's side is

present. No appearance

to the O. P. Rejoinder

to be filed by applica-

nt on or before

4/12/91.

7.5.92

Applicant is ordered
to file Rejoinder by
~~on or before~~ 5.8.92

Day

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW

3
229/89

ORDER SHEET NO.

D.A./T.A. NO.

OFFICE REPORT

* D A T E /

ORDER

6-12-92

D.R.

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

112/93

D.R.

None is present for the
Parties. Applicant to file Rejoinder.

List this case on 7/4/93 for

F.H.

OK

Date

7-4-93

S.H.

obj/ai

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

Sri A.K. Dixit counsel for the
Applicant and Sri B.K. Shukla
counsel for the respondents are
present. The court by the parties
Sole adjudication visit this case
for final hearing 12.4.93

J.M.

Dated: 12.4.93

Hon'ble Mr. S.M. Farooq, 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 Administrative Tribunal
Circuit Bench, Lucknow

Distt. HAROONI.

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
I N D E X

S. No.	Description of Documents relied upon	Page No.
1.	Memo of claim application	116 to
2.	Annexure No. A1 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)

(Signature)

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

Filed on 30.8.89

Signature
for REGISTRAR.

(Signature)

30/8/89

19-9-89

Noted for *(Signature)*

(Signature)

30.8.89

MT 67 दिसंबर

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH

L U C K N O W .

1
AM

GR 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. Astt. 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

मनन सिंह

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

3. Limitation

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

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 cause 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 post humous daughter born after about 5 months after death of Sri Udan.

(3)



-3-

4.6. That since applicant no. 1 is illiterate 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 Mannjal 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 M. Jang's Book on Railway Establishment Mannual) is also reproduced below:-

"Benefits admissible on getting temporary status:

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

(4)
P.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)ii-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/C1/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.

(5)
PK

-5-

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 Marksheets of High School Examination of 1988 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(Cr.) 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)

-6-

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. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS.

- A. Because applicant has a statutory right to be appointed in place of her deceased husband on compassionate grounds who died in harness.
- B. Because to keep matter of such appointment pending for such a long time leads to arbitrariness.



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

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

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

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 outcome 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.

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 other in favour of applicants to the effect that they are entitled to receive all consequential monitory 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.

9. Interim Relief, if any prayed for.

NIL.

10. Application is presented
through counsel

Sri A.K.Dixit,

Advocate,

509/28Ka, Old Hyderabad,

L U C K N O W.

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

Fee

1. No. of Postal order/Bank Draft DD 029071
5

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

लालन द्वारा प्राप्त

4. Index of compilation No. II.

5. Paper Book of Compilation No. II.

6. Vakalatnama.

Applicants,

1. Smt. Ram Janki

2. Lakhan Singh Yadava

L71 Smt. Ram Janki
लाखन सिंह यादव

Verification.

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 to 12 are believed to be true on legal advice and that I have not suppressed any material fact.

Date: 29.8.89

Place-Lucknow.

लाखन सिंह यादव
L71 Smt. Ram Janki

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW, U.P. NO. 11

Smt. Ramjelka and others

LUCKNOW

Applicant

Opp. Party.

Union of India and others

VS.

Annexe No. A1

(11)
(11)

उत्तर देश

दंड दी पी ओ/405(वी. ३)

मंडल रेत प्रबल्ल क्षेत्र

दिनांक १५-११-६४

मुरादाबाद ।

Smt. Ram Jelka

मा. नाम:

Vill & P.O. Raisan.

Distt : Faizabad

प्रधान: अमृकृष्ण के अधार पर नियुक्त हेतु गांव

अमृकृष्ण के आधार पर नियुक्त हेतु गांव पर नियार किया गया। हेतु है कि नियमखार नियुक्तिकारणों से हेतु स्थीर बही किया जा सकता।

क्रमांक दोष दर्ता गांव -
परिमाण (Time - Period) ३।

Abhay Kumar Mukherjee

लोग मंडल रेत प्रबल्ल

मुरादाबाद ।

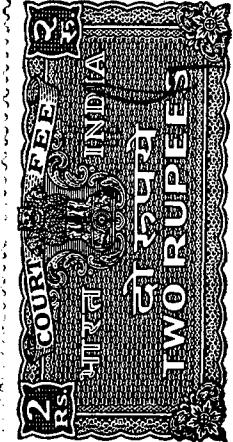
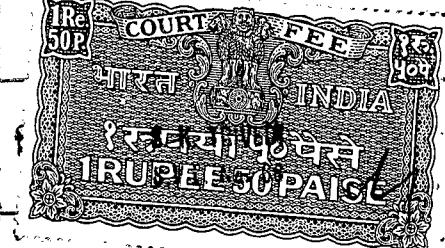
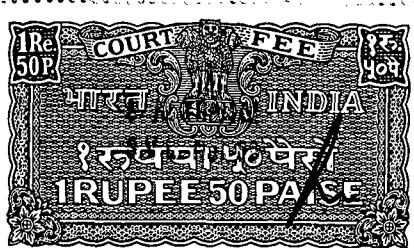
ATTESTED,

Abhay Kumar Mukherjee

Advocate
HIGH COURT
LUCKNOW.

लाखनसह ५३८

वकालत नामा



Smt. Ram Jan ki & other

नाम वादी
 समृद्धि Mission विद्युत इंडिया गोल्ड
 श्रीमान ABHAYA KUMAR Dixit एडवोकेट
 श्रीमान ABHAYA KUMAR Dixit एडवोकेट
 अधिकारी वकील साहब
 ५७९/१८५, old Hyderabad

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 उत्तिलित वकील साहब उपरोक्त मुकदमे व अपील व निगरानी में जो कुछ पैरवी या उत्तर प्रयुक्तर करे या दावा व वकील निगरानी व बयान तहरीर दाखिल करें या कोई काध-जात या सनद इत्यादि पेश करें या वापस करे या हमारी ओर से इजराय डिगरी करके या रुपया जो हमे 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 जिसमेदारी मुआवजा बाड या पुनर्वास भत्ता एग्योटी अर्धवासी या बृद्ध जोतकार एकट आदि के बाँड लेवे तथा किसी मुकदमे पक्ष आदि नियत यह सब मय हानि लाभ के जो मिसिल में कार्यवाही करेगे हमें स्वीकार होगा और नियत में हनताना 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 लोक्यज्ञस्थानव

गवाह

हस्ताक्षर

Accepted
Allyn

Abhaya Kumar Dixit
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BENCH
LUCKNOW.

X/23

Smt. Ram Janki and another.. Applicant.
Versus.
Union of India & others.. Respondents.

Compilation No.2 I N D E X		Page	Remarks
Sl.	No. Description of Annexures	no.	
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. Lakhan Singh Yadav.

लालन यादव

THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BRANCH
LUCKNOW

Smt. Ramjanki and others

Union of India and others

PLS.

Applicant
Opp. Parties.

Amicus No. A2

1
2
3

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-paras (i) and (ii) above respectively.
- (iv) 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)

Abhaya Kumar Dixit
Advocate

HIGH COURT
LUCKNOW.

2
R.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, 1927, will be offset against the terminal/death gratuity payable under these orders.

Abhay Kumar - D.L.L.

Advocate
HIGH COURT
LUCKNOW.

महाराष्ट्र विधान

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL CIRCUIT BRANCH

LUCKNOW

Smt. Ramjanki and others

Applicant
off. No. 11

Union of India and others

115

Annexure No. A3

(3)
78

1956-HAID SKOL PARIKSHA ANK PARCH

माध्यमिक शिक्षा परिषद, उत्तर प्रदेश, द्वारा भवानित 1956 की हाई स्कॉल 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
JANTA I COLL KACHHAUNA HARDOI

परीक्षा प्रवर्ग संस्था/व्यक्ति
FULL-EXAM REGULAR

विषय	प्र०	प्र०	प्र०	विद्यानुमार प्राप्तांक								मूल परीक्षाफल	
				प्र०	प्र०	प्र०	प्र०	प्र०	प्र०	प्र०	प्र०		
HINDI	100	33	19	24	14							057	260.
SANSKRIT	100	33	17	19								036	PASSED
MATHEMATICS-ONE	100	20	24	01								025	3RD-OIV.
SCIENCE ONE	100	33	16	10	10							036	GRACE=3
SOCIAL SCIENCE	100	33	24	24								048	ME=8
ECONOMICS	100	33	22	30								058	

आचयन्ता के हस्ताक्षर
दिनांक

प्रधानाचार्य

15-1-69
Attested
Shankar Singh
1957-87
निम्नलिखितान्धश
राज्य प्रशासन विभाग
लालबाजार सेक्टर 14

CSIBUP-8

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Abhaya Kumar Dixit

Advocate
HIGH COURT
LUCKNOW.

LUCKNOW

Smt. Ranjanki and others

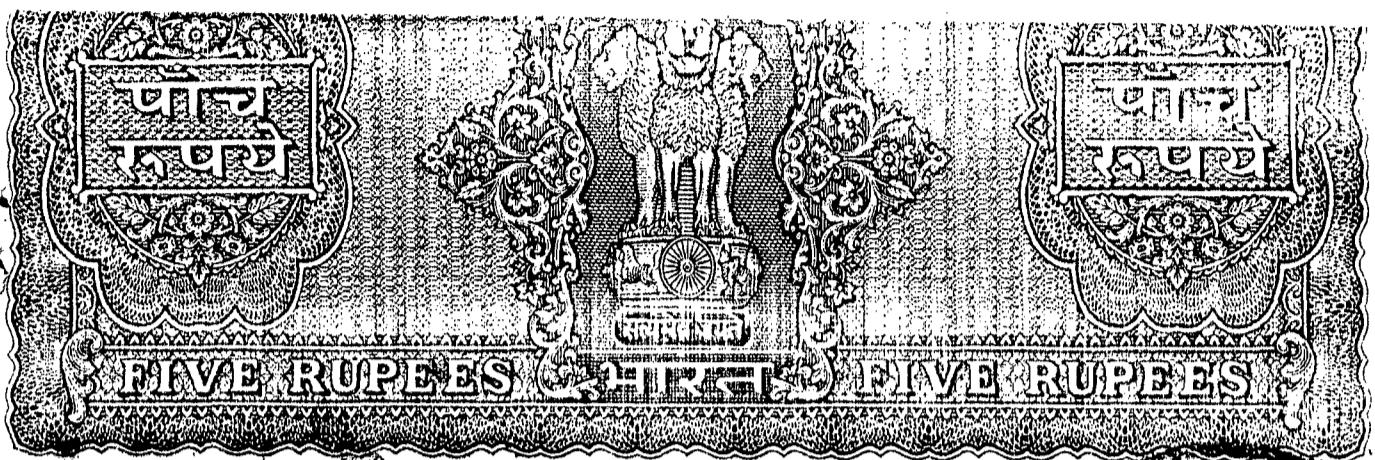
Union of India and others

25

Applicant
Off. Parties.

Answer No. A 4

4
A \rightarrow a



श्रीमान् मण्डल रेखा प्रवन्धक (टी०आ०र०ए०) ।
उ०र० मुरादावाद ।

शापथपञ्च

मैथ्रीमती रामजान्की पत्नी श्री ज्वन मृतक निर्वाचन फतेपुर धारा वेदी गंगा (प्राचीन वेदी) जिला जिला हरदाई मैत्रीदाई निवासी रेसो धारा वेदी गंगा जिला हरदाई सशापथ व्यान करती है कि

किया - यह कि शापूरी के पति श्री ऊदन पुत्रशी गोपाल निवासी फतेपुर के जिला हरदेहाई गैगमैन के पंद पस । 4 नवम्बर को गैग में बालामठ रेलवेस्टेशन पर तैनात हो और ००१० डकूआई हरदेहाई (००१०) के मातहत कार्य कर रहे थे।

2-यह कि शापूर्णी के पति श्री ऊदन की मृत्यु दिनांक 24-1-1972 के जब वह अपनी डूबूटी दे रहे थे कि 135अप्लॉट देन ने उनको अकाल मृत्यु देकी ।

३-यह कि शाप्ति और शाप्ती के पति से पैदा सनी पुत्र उनकी मृत्यु के समय नावालिंग थे।

4-यह कि मेरा सबसे बड़ा लड़ाक श्री तारानन्द पुत्र श्री ऊदन की उम्र सरकारी नौकरी के लिये । ४ वर्ष से अधिक हो गये हैं आज मेरे उक्त पुत्र की उम्र १४वर्षीया है औ उक्ती है

५-वाले ने अपने PT उत्तर लिया था। २ उत्तरीय है और उनके अर्थ देखें।

6-यह कि शाप-पी के उक्त पुत्र लालान के अलावा लड़की और है। लालान से शाप-पी के पूरा विवरण है कि वह अपनी बहन और मुझ माता का भारणपेताजा हैंगा।

7-यहाँ शापथी के लांडों के लाखान के असाका परिवारकी देखारेता जर्दे ताता भाई की

8-यह कि शपथ अपने लड़के को विपता के स्थान पर छुपः रखते हैं तो वे इसका
9-यह कि शपथ ने जो कुछ विचार किए तो वह उचित है वह विचार के बारे में

गलत लिखाया है शापथपत्र शापथपत्र तथा शापथपत्र तथा शापथपत्र
मेरके मददकरें।

मैं शापूर्णी के जानता हूँ

इन्होंने अपनी हाथ मेरे सामनेवाले टर्म

ATTESTED TRUE COPY

શાસ્ત્રપદ્ધતિ

Abhaya-Kumar Dixit

Advocates
HIGH COURT
RECESSION

ଲାଭାନ୍ତିର ଭାବ

Smt. Ramjanki and others
Union of India and others

LOC. NO. 1
VS. APPLICANT
OFF. PARTIES.
Annexure No. A5

(5)
28
X

सेवा में,

श्रीमान मण्डल रेल प्रबंधक महोदय,
उत्तार रेल, गुराहाबाद।

श्रीमान जी,

निकेन है कि प्रार्थी के परिश्री उदन पुत्र श्री गोपाल
पी० डब्बू० आई० रखदोई के अधीन रेलवे मैन के पह पर कार्य कर
रहे थे। डब्बी करो हुये वह बालामज में गाड़ी से बट कर 24-1-72 को
मर गये। उस समय प्रार्थिनी और उसका लड़का लाखान उगर 3 साल का
था। प्रार्थिनी के पति के मरने के 5 महीने बाद एक लड़की हुई थी।
प्रार्थिनी गैर पढ़ी लिखी और परिवर्त में छोटे-छोटे बच्चों का भार
होने के कारण नौकरी करने में बज़बूर थी। प्रार्थिनी को उसके देवर
जेठ ने धार से भागा दिया। प्रार्थिनी को कम्पेन्सेशन का पैसा मिला,
लेकिन पेन्शन नहीं मिला। प्रार्थिनी को 19-4-88 के आदेश द्वारा
नौकरी देने से इनकार कर दिया गया परन्तु फिर उसके द्वारा भार
के लड़के को उगर के लिये दरमाना दे जो उसने 8-9-88 को जारी
के दिया। तब से आज तक योर्ड जनाब नहीं मिला है। जब प्रार्थिनी का
लड़का नाबालिंग था तो वह वैसे नौकरी के लिये दरमाना देता।

तथा: प्रार्थिनी है कि प्रार्थिनी को पेशान ही जाए तो
उसके लड़के लाखान को उसके मृतक पिता उदन के स्थान पर नौकरी की जाए
अति कृपा होगी।

प्रार्थिनी,

दिनांक-25-10-88

निः 30 रामजान की
बेला उदन, ग्राम फर्रोपुर

लाखान सिंह पात्र

ATTESTED THIS 25/10/88
R. M. S.
LASHI COURT
LAW.

Agd
1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

W R I T T E N S T A T E M E N T

ON BEHALF OF THE RESPONDENTS

IN

Registration Case No. 229(L) of 1989.

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

versus

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

Recd. Duplicate
229(L)
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 ~~parawise~~ reply.

3. That Paras 1 & 2 of the petition need no comments.

वर्षदल कामिक अधिकारी
उत्तर रेलवे - मुरादाबाद

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 1.6.1977. 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.

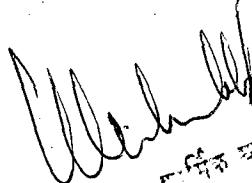
9. That in reply to the para 4 (5) and 4 (6) of the petition it is stated that for want of knowledge the answering respondents are not in a position to offer any comments.

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

मध्य रेलवे-मुदायांकन कार्यकार्यालय

~~applicable~~ 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 employee 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


प्रधान नियन्त्रक अधिकारी
उत्तर रेल्यू-मुमादाबाद

(A32)

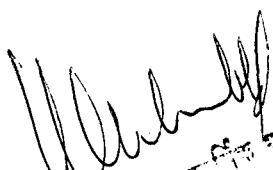
-4-

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.N. 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 Lakan 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


प्रदल दलित आवका
उत्तर रेलवे - द्युरादावाद

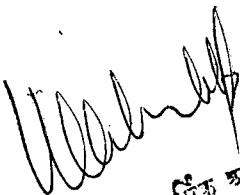
A-23

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.


प्रधान कार्यक्रम अधिकारी
उत्तर रेल्यू-मुद्रावाद

ABW

21. That para 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

Dated: 27-3-1990

Divl. Personnel Officer,
Northern Railway, Moradabad

for Respondents. - मुरादाबाद

A36

SPECIAL POWER OF ATTORNEY

On the court of Central Administrative Tribunal
Regn. No. 229, Addl Circuit Bench Lucknow

Smt Ram Janaki & others

Plaintiff
Appellant
Petitioner

Versus

Union of India & others

Defendant
Respondent
Opposite Party

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

Northern Railway, Moradabad do hereby appoint and authorise

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

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

and to take such steps and proceedings as may be necessary

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

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

present all necessary plaint petitions, written statements and

other documents to compromise the suit admit the claims and

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

the court of money deposited and to file and withdraw comments

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

proceedings arising thereout whether by way of execution appeal

or otherwise or in any manner connected therewith as effectually

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

I hereby agree to notify and confirm whatever shall be lawfully

done by virtue of these presents.

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

(S.N. Pandey)

Northern Railway

Divt. Rx. Manager
Northern Railway
Moradabad

Accepted
B. K. Shukla
Advocate

RJ/66

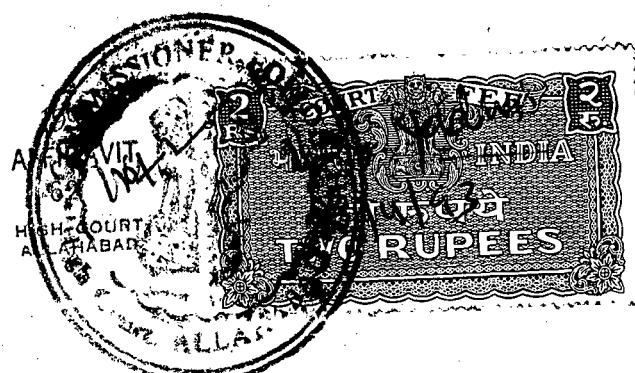
In The Central Administrative Tribunal, Lucknow Bench
Lucknow.

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 Raison 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.

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15.4.90



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 Respondent~~ 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 5 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



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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.

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.

2K2
Dated
12-4-93

Deponent.

राम लक्ष्मण
(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 one knowledge. No part of it is false and nothing material has been concealed so help me God.

2K2
Dated
12-4-93

Deponent.

राम लक्ष्मण
(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 a.m. p.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.

M. D. A. M.
OATH COMMISSIONER
High Court Lucknow, Beach Road, Lucknow
No. 621
Date: 12-4-93

A.M.C.

IN THE Central Administrative Tribunal Lucknow Bench
 Case No. 7 Rtm. Jenki and others ^{deceased} - - - - - Appellant
 Union of India vs ^{deceased} - - - - - Respondent
 R.B.E. No. 66/85 Annex (R-1) - - - - - 81

R.B.E. No. 65/85

Subject: Appointment on compassionate grounds.

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

Attention is invited to para 2 of this Ministry's letter No. E(NG) III/78/RC 1/1, 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.

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