

FORM NO. 21

(See rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ~~Lucknow~~ BENCH

OA/TA/RA/CP/MA/PT ..201.....of 20.90

Smt. Nihari.....Applicant(S)

Versus

V.O.I. 8.223.....Respondent(S)

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Certified that the file is complete in all respects.

B 2 C. file weeded out and destroyed. *Am 26.6.12*Signature of S.O. *or 10/10/91*

Signature of Deal. Hand

Central Administrative Tribunal

Lucknow Bench

INDEX SHEET

Cause Title CA 201/90 of 1993

Name of the Parties Smt. Nihot Applicant

Union of India Versus

Respondents

Part A.E.C.

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(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 261 of 1985 (S)

APPLICANT(S) Smt. Niton

REPRESENTANT(S) U. S. K.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? Y
2. a) Is the application in the prescribed form ? Y
b) Is the application in paper book form ? Y
c) Have six complete sets of the application been filed ? Y
3. a) Is the appeal in time ? Y
b) If not, by how many days it is beyond time ? Y
c) Has sufficient cause for not making the application in time, been filed ? Y
4. Has the document of authorisation/ Wakalatnama been filed ? Y
5. Is the application accompanied by B.O./Postal Order for Rs. 50/- Y
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? Y
 - a) Have the copies of the documents relied upon by the applicant and mentioned in the application, been filed ? Y
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? Y
c) Are the documents referred to in (a) above neatly typed in double space ? Y
8. Has the index of documents been filed and paginating done properly ? Y
9. Have the chronological details of representation made and the outcome of such representation been indicated in the application ? Y
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal ? NA

Particulars to be ExaminedEndorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ? *Y*

12. Are extra copies of the application with Annexures filed ? *Y*

a) Identical with the Original ?

b) Defective ?

c) Wanting in Annexures

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 ? *Y*

15. Do the names of the parties stated in the copies tally with those indicated in the application ? *Y*

16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? *N*

17. Are the facts of the case mentioned in item no. 6 of the application ? *Y*

a) Concise ?

b) Under distinct heads ?

c) Numbered consecutively *Y*

d) Typed in double space on one side of the paper ? *Y*

18. Have the particulars for interim order prayed for indicated with reasons ? *No*

19. Whether all the remedies have been exhausted. *Y*

dhushy

20/7/90 (C)

(R3)

26-6-90

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

Hon. Mr. K. Obayya, A.M.

Learned Counsel for the
Petitioners says that he will instead
the petitioner's son as a party to
this case list for order or admission.

On 24-7-90.

A.M.

of

V.C.

24-7-90 Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. K. Obayya, A.M.

(R)

The amendment application is allowed. He for the
applicant has not filed any application
in pursuance of the order S.S.C/A
dt. 26-9-90 is allowed. It
has been incorporated and
the newly added applicant
Mr. Sri Tiya Ram Shull
sign the petition within a
24 hours. ~~week~~ time. Put up
tomorrow for admission.

B

A.M.

of

V.C.

25-7-1990: Hon'ble Mr. Justice K. Nath, V.C.,
Hon'ble Mr. K. Obayya, A.M.

While issuing notices to the respondents to show cause
why this petition may not be fixed admitted, list for
admission on 25-9-90 when the respondents shall also produce
records & the case ~~will~~ be disposed of finally.

15/7/90

(A.M.)

ES/

(V.C.)

on
notice given
on
18-9-90
(R)

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

(PW)

M.P 292-902

OA No.

201 OF 19 905

Vs.

Sl.No.	Date	Office Report	Orders
		<p>on S. Varma files M.P No 292/915 for extension of time</p> <p>S. FO Both the 4c & Date been noted dates</p> <p>S. FO</p> <p>L 24/3</p>	<p>24-6-91 Hon. Mr. Justice R. Nall, VC Hon. Mr. Kobayashi - AM C.M.A 292/91(1) is an application for extension of time to implement this Tribunal's Judgment dated 6-2-91, in OA 201/90. We honor the learned counsel both the parties. The parties are granted time till July 91 to comply with the order. No further time shall be granted.</p> <p>List on 31-7-91</p> <p>AM</p> <p>RC</p>
		<p>31.7.91</p>	<p>No sitting adj. to 14.8.91</p>
		<p>14.8.91</p>	<p>case not reached. Adj. to 13.9.91</p>
		<p>13.9.91</p>	<p>No sitting adj. to 16.9.91, ^{13.9.91 C.}</p>

AS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

O.A. No. 201 of 1990(L)

Smt. Nihori

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice K. Nath, V.C.
Hon. Mr. K. Obayya, A.M.

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

We have heard Shri K.P. Srivastava for the applicant and Shri Siddhartha Verma for the respondents who also files Counter.

2. Ram Nihori, the husband of applicant No. 1 and the father of applicant No. 2 Jiya Ram was in the respondents' employment when he died on 29.5.84. The widow made an application (Annexure A-1) followed by Annexure A-2 dated 4.9.89 for appointment of her son, the applicant No. 2 on compassionate grounds. The applicant No. 2 also made a similar application Annexure A-3 dated 17.9.89. According to the applicants no orders have been communicated to them.

2. It is stated in the Counter that the representations were rejected, but the case has been referred to the General Manager on the ^{motion} of the Union and is still pending. We, therefore, direct that the respondents No. 1 shall consider and pass speaking order on the representation dated 4.9.89 (Annexure A-3) forwarded alongwith the case to the General Manager within a period of two months from the date of receipt of a copy of this judgment.

Ram Nihori
A.M.

V.C.

Lucknow Dated 6.2.91.

Al

Date of filing 21/6/90
Date of Registration 21/6/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
CIRCUIT BENCH LUCKNOW.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNALS ACT, 1985.

REGISTRATION NO. 201 of 90.

Smt. Nihori Versus Union of India and others.

COMPILATION NO. 1.

INDEX.

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1. Application.	1 to 6
2. Vakalatnama.	7

Noted for
26/6/90
Kab/ANW
21/6

FOR USE IN TRIBUNALS OFFICE.

Date of filing 21-6-1990

Filed Today
Smt
21/6/90

R.T.I. of Applicant
Smt. Nihori.

R.T.I. of Smt. Nihori
Kab/ANW
21/6/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AYABAD
CIRCUIT LUCKNOW.

Registration No 201 of 1990. (4)

1. Smt. Nihori Widow of Ram Nihore Ex Gangman,
under Permanent Way Inspector, N.Rly.,
Rudauli, resident of Village Ashagarh, Tewari
Ka Pura, P.O. Katehri, District Faizabad.
2. Shri Jia Ram S/o Ram Nihore
a/o Village Ashagarh Tewari Ka Pura
VERSUS District Faizabad
APPLICANT.

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, N.Railway,
Hazratganj, Lucknow.
3. Assistant Engineer, Northern Railway, Faizabad.

..... Respondents.

DETAILS OF APPLICATION:

1. Particulars of the order against which the application is made.

There is no Impugned order. The applicant has applied for appointment of her son Shri Jia Ram on compassionate ground, as her husband died on 29.4.84 while he was in service.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter against which he wants redressal is within the jurisdiction of the tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal's Act 1985.

Contd....2.

RTI
for Nihori
by my
Kashyap

4. Facts of the case:-

1. That Late Shri Ram Nihore son of Shri Jhagroo, Ex-Gangman, was appointed on 28.5.67 under Permanent Way Inspector Rudauli and his pay was Rs. 250/- per month.

2. That Sri Ram Nihore expired on 29.4.84 in harness leaving behind the widow and son three and daughter the applicant and the sons. Photo-stat copy of the Certificate issued by PWI/Rudauli is enclosed as Annexure NO: A.1. to this petition.

3. That the applicant is illiterate woman and is unable to serve the Railway Administration. *because of ill health*

4. That the applicant made a representation to the Divisional Railway Manager, N.Rly., Lucknow through Assistant Engineer, N.Railway, Faizabad dated 4.9.89 for appointment of her son Sri Jia Ram. *application No* A photo-stat copy of the application is annexed as Annexure NO: A-2.

5. That the applicant's son Sri Jia Ram, *application No* also gave an application on 4.9.89 to the Divisional Railway Manager, N.Rly., Lucknow, through Assistant Engineer, N.Railway, Faizabad.

6. That the Assistant Engineer, N.Rly., Faizabad forwarded the application of the applicant and her son dated 4.9.89 in original/ and other relevant papers vide his letter No.5/E/CG/89 dated 17.9.89. Photo-stat copy of the letter is Annexed as Annexure NO.A.3.

Re 9 of
Sub Nihon
revised
Kash Advancer

Contd....3

7. That the applicant has to maintain 3 unmarried sons and 2 unmarried daughters and the applicant has no other source of income to support them.

8. That the applicant reminded the Divisional Railway Manager, Northern Railway, Lucknow- the opposite party no.2 through opposite party no.3 and the opposite party no.3 again sent the application of the applicant, the application of my son ^{Applicant No 2} Shri Jia Ram, Photo-stat copy of transfer certificate of Sri Jia Ram and Pass Port size photo of Sri Jia Ram, vide his letter No.5/E/CG/89 dated 9.3.90. The photo-stat copy of the letter is annexed as Annexure No.2-4.

9. That prior to this the applicant met the Divisional Railway Manager, Northern Railway, Lucknow and Assistant Engineer, N.Railway, Faizabad several times but there was no any psotive response from them.

10. That as per orders of the Railway Board, it has been directed vide their letter No.E(NG) II-~~8~~ 84/RC-1/174 dated 25.6.85 that the Railway should endeavour to make compassionate appointments as early as possible. Photo stat copy of the said letter is annexed as Annexure No: A-5.

11. That as per orders of the Railway Board ^{Applicant No 2} issued from time to time the applicant's son is entitled to be appointed on compassionate ground. Photo stat copy of Railway Board letter No. E(NG) II-8/84/RC-1/174 dated 25.6.85 is annexed as Annexure A-2.

Regd copy
S. B. Singh
Advocate

Kalyan Bhattacharya

12. That the purpose of providing appointment on compassionate ground is to mitigate the hardships due to the death of the bread earner in the family and accordingly ~~as~~ the applicant's son is to be appointed on compassionate ground even by creating ~~supernumerary~~ ~~post~~ supernumerary post so that the applicant may be able to maintain her family.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

1. Because the respondent/opposite parties no. 2 and 3 did not honour the statutory rules framed by the Railway Board.

2. Because the appointment of the applicant's son is being abnormally delayed as a result the applicant's family will die of starvation in such a Welfare State.

3. Because adopting delaying tactics in appointment of the applicant's son is a denial of livelihood for a long period and is in complete violation of Railway Board's orders.

6. GROUND DETAILS OF REMEDIES EXHAUSTED:

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

1. That the applicant gave application for appointment of her son to the Divisional Railway Manager, N.Railway, Lucknow through Assistant Engineer N.Rly. Faizabad on 4.9.89 as per annexure No:A-2.

*Recd of
Smt. Nisha
Verifd
Kashyap*

Contd....5.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

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

8. RELIEFS SOUGHT:

In view of the facts mentioned in para 6 above the applicant prays for the following reliefs:-

1. To issue writ or direction in the nature of mandamus directing the respondent No.2 to appoint the applicant's son in the category of Class IV (Group 'D') without any loss of time.
2. To issue writ or direction in the nature of mandamus directing the respondents to appoint the applicant's son against a vacancy in ~~the~~ Group 'D', and if the vacancy is not available he may be appointed on compassionate ground by creating supernumerary post.
3. To issue any order or direction as the Hon'ble Court may deem fit in the circumstances of the case.
4. To award cost to the applicant to meet the expenses already borne by the applicant.

179 of
Smt. Nelson
Verdict
100% Advocate

DR

The ground for the relief is that the ~~applicants~~ No. 1 applicant's son is entitled to be appointed on compassionate ground as per orders of the Railway Board as the applicant's husband died while he was in service.

9. INTERIM ORDER IF ANY: NIL.

10. NIL.

11. Particulars of Postal Order filed in respect of application fee:

1. Postal Order No. DD 827169 for Rs 50/-
2. Date of issue. 25/5/89
3. Name of issuing Post Office: C.G. Works Workshop
Ashgarh Lucknow
4. Post Office at which payable: Head Post Office
Allahabad.

12. List of Enclosures:

1. Annexure No. A-1: Photo-stat copy of the certificate issued by PWI/Rudauli.
2. Annexure No. A-2: Photo-stat copy of the application of the applicant dated 4.9.89.
3. Annexure No. A-3: Photo-stat copy of AEN/Faizabad letter No. 5/E/CG/89 dated 17.9.89.
4. Annexure No. A-4: Photo-stat copy of AEN/FD letter No. 5/E/CG/89 dated 9.3.90.
5. Annexure No. A-5: Photo-stat copy of Railway Board letter No. E(NG) II-84/RC-1/174 dated 25.6.85.

Verification.

I, Smt. Nihori, widow of Ram Nihore, aged about 34 years resident of Tewari ka Pura, Ashagarh Katehri Distt: Faizabad do hereby verify that the contents of Paras 1 to 4, 6 to 7 and 9 to 12 are true to my personal knowledge and Paras 5 and 8 believed to be true on legal advice and that I have not suppressed any material fact.

21 - 6 - 1990

EMM a
R.T.I. of the Applicant

Widow Nihori / Adroable

All (8)

Before Central Administrative Tribunal
 ब अदालत धीमान
 [वादी अपीलान्ट]
 [श्री
 प्रतिवादी [रेस्पाडेन्ट]

Aligarh
 Lucknow Circuit महोदय

का वकालतनामा



Sub Nihon

बनाम (W) and प्रतिवादी (रेस्पाडेन्ट)

नं० मुकद्दमा

सन्

पेशी की ता०

१६ ई०

K. P. Srinivas Iyer

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री

Advocate M/123 L. D. Colony
 Moti Jheel Lucknow

वकील

महोदय
 एडवोकेट

वकालत
नं० मुकद्दमा
परिकल्पना
नाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रूपया लाभ करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करे मुकद्दमा उठावे या कोई रूपया जमा करे या हारी विपक्षी (फरीकसानी) का दाखिल किया हुआ रूपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि हर पेशी पर स्वयं वा किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted

K. P. Srinivas Iyer

साक्षी (गवाह)

दिनांक महीना — — — — सन् १६ ई०

स्वीकृत

१६ पारोध
 हस्ताक्षर
 K. P. Srinivas Iyer

K. P. Srinivas Iyer

BC
AM

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. 292 of 1991

In re:

O.A. No. 201/90(L)

Smt. Ram Nihori and another

.... Applicants

Versus

Union of India and others

.... Respondents

(Decided on 06.02.1991)

APPLICATION ON BEHALF OF RESPONDENTS

FOR EXTENSION OF TIME TO COMPLY WITH THE JUDGMENT

PASSED BY THIS HON'BLE TRIBUNAL DATED 13.02.1991

This application on behalf of the Respondents above named most respectfully sheweth :-

That for the facts, reasons and circumstances stated in the accompanying statement on behalf of the Respondents, it is most respectfully submitted that in the interest of justice, this Hon'ble Tribunal may kindly be pleased to extend the time for compliance of its judgment and order dated 13.02.1991 passed by Hon'ble Mr. Justice K. Nath, V.C. and Hon'ble Mr. K. Obayya, A.M. for a period of three months.

Such other orders which are deemed fit and proper in the circumstances of the case may also kindly be passed.

Filed today
Siddharth Verma
13/2/91
Lucknow, Dated :
May 8, 1991.
13/2/91
Siddharth Verma

Siddharth
(Siddharth Verma)
Advocate,
Counsel for the Respondents.

Received duplicate
Copy
K.D. Banwari
13/2/91

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

AIS

O.A.No.201/90(L)

Smt.Nihori and another

....Applicants

Versus

Union of India and others

....Respondents

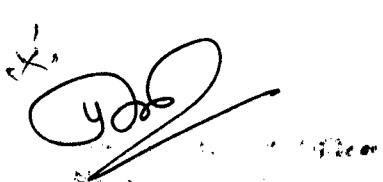
(Decided on 6.02.1991)

STATEMENT ON BEHALF OF RESPONDENTS IN SUPPORT OF
APPLICATION FOR EXTENSION OF TIME FOR COMPLIANCE
OF JUDGMENT AND ORDER OF THIS HON'BLE TRIBUNAL

DATED 6.02.1991.

I, P.N.T. [Signature] presently posted as Ass't Personnel Officer in the Office of the Divisional Railway Manager, Northern Railway, Lucknow solemnly state as under:

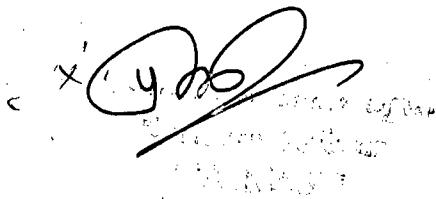
1. That the undersigned is presently posted as Ass't Personnel Officer in the Office of the Divisional Railway Manager, Northern Railway, Lucknow and is looking after the above mentioned case on behalf of the Respondents. The undersigned is competent and duly authorised by the Respondents to file this statement on their behalf and is well conversant with the facts stated hereunder.
2. That by its judgment and order dated 6.02.1991, this Hon'ble Tribunal was pleased to direct the Respondent No.1 to decide the matter of appointment of Applicant No.2 on compassionate grounds, which was pending consideration before him within 2 months from the date of receipt of copy of the said judgment.
3. That immediately after the receipt of the certified copy of the judgment and order passed by this Hon'ble Tribunal on 6.02.1991 on 11.03.1991 from the Counsel, the Respondents have taken action to comply with the aforesaid judgment and orders of this Hon'ble Tribunal, and the matter is under active consideration of the Competent Authority. But as some more clarifications are required from the officials concerned at the level of the Divisional Railway Manager, Northern Railway, Lucknow, as it would be evident from the ANNEXURE No.1 and ANNEXURE



No.2 to this statement, the decision on the matter of appointment of Applicant No.2 may take considerable time, and the judgment and order dated 6.02.1991 may not be complied within the time prescribed by this Hon'ble Tribunal.

4. That in view of the submissions made hereinabove, the undersigned is advised to state and pray that it would be expedient in the interest of justice to extend the prescribed time for compliance of the judgment and order of this Hon'ble Tribunal for a further period of 3 months.

Lucknow Dated:
May 85, 1991.

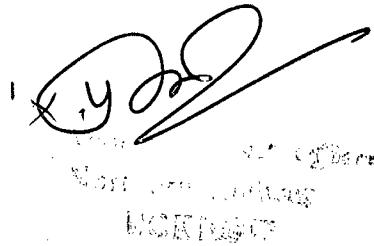


P.N. Talyar
Northern Railway
Divisional Manager
Lucknow

VERIFICATION

I, P.N. Talyar, presently posted as ~~Asstt Personnel Officer~~ in the Office of the Divisional Railway Manager, Northern Railway, Lucknow hereby verify that the contents of paragraph 1 of this statement are true to my personal knowledge and those of paragraphs 2 and 3 are based on record and the same are believed to be true. The contents of paragraph 4 are based on legal advice and the same are believed to be true. That no part of this statement is false and nothing material has been concealed.

Lucknow Dated:
May 84, 1991.



P.N. Talyar
Northern Railway
Divisional Manager
Lucknow

A/17

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. of 1991

In re:

O.A.No.201/90(L)

Plaintiff & Respondent

Defendant & Respondent

Versus

Union of India and others

.... Respondents

(Decided on 06.02.1991)

ANNEXURE No.1

Northern Railway

Confidential
No.E/WB/ACG/2766

Divisional Office,
Lucknow Dt.19/3/91.

General Manager(P),
Northern Railway,
Baroda House,
New Delhi.

Sub:- Appointment of Sri Jiya Ram Verma S/O Late Sri Ram Nihore Ex Gangman under PWI/Rudauli.

Ref:- Your office D.O.Letter No E-33/7629(CG) dated 28.2.91.

In the above context please connect Sr.D.P.O.'s D.O. of even no. dated 19.5.86 addressed to Sri P.M. Ahlawat S.P.O./Hd.Qrs. in which full facts of the case were intimated.

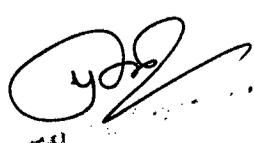
It was pointed out in the said D.O.letter that the deceased while working as Gangman under PWI/RDL absented himself unauthorisedly from 9.2.79 and did not report back for duty and died on 29.4.84.

According to settlement papers all pensionary benefits have been arranged in the favour of his widow Smt.Nihori and paid retirement benefits upto 29.4.84.

Late Ram Nihore has thus been treated as died while in service.

The case was earlier rejected on the grounds that even if it was presumed that Late Shri Ram Nihore would have been sanctioned Extra-ordinary leave the 5 year limit expired on 28.2.84 and he died on 29.4.84 i.e. after the expiry of 5 years limit, without reporting back for duty and so he can not be taken as Railway Employee in consideration of his Son's appointment on Compassionate grounds. As already mentioned in the said D.O.Letter the case being NRMU's PNM item was referred to Hd.Qrs.Office for decision.

Keeping in view the fact that the deceased died while in service and paid all settlement dues upto 29.4.84 the case is therefore covered under the extant rules for considering appointment of his ward on compassionate grounds.

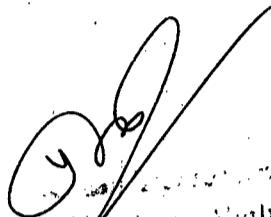


Detailed particulars indicating also the settlement dues paid made to the widow are given on the prescribed proforma attached.

Necessary decision in the matter may please be communicated to this office early.

DA/

Sd/- Illegible
(A.S.Khati)
for Divl.Railway Manager,
N.Rly., Lucknow.


A.S. Khati
Northern Railway
LUCKNOW

TRUE COPY

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

Civil Misc. Application No. of 1991

In re:

O.A.No.201/90(L)

Smt. Nihori and another
Union of India & others
ANNEXURE NO.2

A.P.Nagrath

Versus

....Applicants
....Respondents
मुख्य कार्यिक अधिकारी (प्रशासन)
उत्तर रेलवे, वडोदा हाउस
नयी दिल्ली
CHIEF PERSONNEL OFFICER (ADMN.)
NORTHERN RAILWAY
BARODA HOUSE
NEW DELHI

Confidential
DO No:II-33/7600/CG

1991

My dear Agarwal,

Sub:- Appointment of Sri Jiya Ram Verma s/o late
Shri Ram Nihore, Ex-Gangman under PWI/Rudauli.

Ref:- Your office Confdl.letter No.E/WB/ACG/2766 dt.
19/3/1991.

On perusal of the case, it is noted that the above named was on unauthorised absence for more than 5 years. Once the employee has absented himself for more than 5 years, the only authority to take him on duty lies with the President. Thus a clarification is required as to how he has been taken on duty, while continuing on unauthorised absence. It may please be clarified as to the basis on which it has been presumed that the death of the employee has occurred while in service. Also action taken with regard to unauthorised prolonged absence of the above named may also please be intimated.

A case of Shri Kalka Prasad Maurya s/o Shri Mata Din was quoted by Sr.DPO in his DO letter dated 19/5/1986. This case has been regretted by the Railway Board vide letter No.E(NG)II/89/RC-I/130 dated 24.10.89 and your division has already been advised vide this office letter No.E-33/7600/CG dated 6.11.89.

Since this is a case wherein Hon'ble Court have directed for taking a decision, you are requested to kindly sent above clarifications through Special Messenger.

With regards.

Yours sincerely,

Sd/- Illegible.
(A.P.Nagrath)

Shri V.K.Agarwal
Divl: Railway Manager
Northern Railway
LUCKNOW.

TRUE COPY


A.P. Nagrath
Chief Personnel Officer
Northern Railway
Baroda House
New Delhi

R20

CENTRAL
BEFORE THE ADMINISTRATIVE TRIBUNAL ALLAHABAD.
ENVIRONMENTAL MEMORIAL
CIRCUIT BENCH LUCKNOW.

APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNALS ACT, 1985.

Registration No. 201 of 1990.

Smt. Nihori Versus Union of India and others.

COMPILATION NO. 2.

INDEX.

S.No: Description of documents relied upon. Page Nos.

1. Annexure No.A-1. Photo-stat copy of the certificate issued by PWI/Rudauli. 10-18
2. Annexure No.A-2. Photo-stat copy of the application of the applicant dated 4.9.89. 9-10
3. Annexure No.A-3. Photo-stat copy of AEN/Faizabad letter No.5/E/CG/89 dated 17.9.89. 10 b/11
11 b/12
20-21
4. Annexure No.A-4. Photo-stat copy of AEN/Faizabad letter No.5/E/CG/89 dated 9.3.1990. 12 b/13 b/14
21-22
5. Annexure No.A-5. True copy of Photo-stat copy of Railway Board's letter NO.E (NG) II-84/RC-1/174 dt.25.6.85. 13 b/14
22-23
6. Annexure A-6 Photo-stat copy of Railway Board letter NO.E (NG) II-178/RC-1/1 dated 30/4/79. 14 b/15

RTI of Applicant Smt.Nihori.
FOR USE IN TRIBUNAL'S OFFICE.

Date of filing. 21-6-1990. *Minal* *Kishore Baral*

Annex. A/ BB/



उत्तर रेलवे
NORTHERN RAILWAY

This is to certify that Mr
Ram Nihare 9/0 11 Jhagroo,
Ex-Gangnam J. B. H. / Rudauli
expired on 29.4.84.
His date of appointment was
28-5-67. and his basic
pay was Rs 250/- p.m.

3 -

22.2.90
उत्तर रेलवे
राम निहरे

True copy
affixed
post office
-

श्रीमान मंडल रेल प्रवन्धक महोदय उत्तर प्रदेश^{१२०}
लखनऊ

सेवा में,

सदिनय निवेदन है कि प्रार्थी के पिता स्व० श्री राम निहोर पुत्र छारू ग्राम आशागढ़ तिवारी का पुरवा पोस्ट कटेहरी थाना गोसाईगज जन्मद फैजाबाद का निवासी है और गैंग नम्बर 48 अधीनस्थ रेलव्ह निरीक्षक रुदौली के यहाँ कार्यरत था उनका देहान्त दिनांक 29-4-84 दिन रबिवार समय 8.30 बजे रात्रि में हो गया था प्रार्थी जियाराम पुत्र स्व० श्री राम निहोर कुर्मी का सगा लड़का है पिता के देहान्त के बाद परिवार के भरण पोषण का कोई साधन नहीं है जिससे प्रार्थी के परिवार की हालत बड़ी गम्भीर स्थित में है और परिवार का भविष्य बड़ा अन्धकारमय स्थिति में है।

अतः श्रीमान जी से निवेदन है कि प्रार्थी को कल्पामूलक आधार पर कार्य करने का अवसर प्रदान करें जिससे मैं अनी माता तथा सभी परिवार का भरण पोषण कर सकूँ। महान कृपा होगी।

दिनांक:- ५/५/८५

प्रार्थी निवारी प्रशान्त
पाठी काशगढ़ तिवारी प्रदेश
पोस्ट कटहरी

लखनऊ जनवाद फैजाबाद
अमेठी
काशगढ़ फैजाबाद

(10) (A3)
B23

RAILWAY

NO. 111727/2

File of the Head Engineer
of the Engineering Department

Mr. M. V. R. Rao (Engineer)
H. R. C. E. M. S. 1982

Enclosed copy of the file from Mr. Ramnath, Dr.
Chairman of the Engineering Department
of the Engineering Department.

See the same where we proposed his appointment
P.W.D. date 7.1.1984. His file no. 351
Nehru requesting issue her application dated 6/9/84 for
appointment of the C.E. for British Law on Engineering
Ground.

In this connection the following documents
are sent here with regards further as per
please.

1. An application dated 29.4.84 of Mr. Nehru & file
see above Nehru Exh. 1.
2. An application dated 4.9.84 of Mr. J. R. Ramnath
3. Photostatic copy of certificate given by P.W.D. dated
4. Do. 11.10.1984 (Ref. No. D. 9/25.8.84)
5. Do. Transfer certificate from the High School of
DA

3. Exh. 1.

2. Photostatic
copy of certificate

Done this

15/9/84
Attest

K. S. J. Adwale

(17)

Amx A-3

(22)

श्री मन मंडल रुप पूर्ववक्त महादेव

ठत्तर प्रदेश लखनऊ।

स्थान में :-

सविनय निवेदन है कि प्राथी के पिता स्व० श्रीराम निहार पुत्र
 कांगड़ागढ़ तिवारी का पूरा पा० कट्टेहरी धाना गांसाड़ीज़ जनपद
 के जाबाद का निवासी है आरपै नं० ४५ अधीनस्थ स्लेपथ निरीक्षक स्थानी
 के यहाँ कार्यरत था उनका देहांत दिनांक २६-४-८४ दिन रविवार समय साढ़े
 बजे रात्रि में हो पया था प्राथी जियाराम पुत्र स्व० श्री रम निहार का
 सारा लड़का है। पिता के देहांत के बाद परिवार के मरण पांचणामा कोई
 साधन नहीं है जिससे प्राथी के परिवार की हालत बही अंगीर स्थिति में है।
 आरपरिवार का मविष्य बहु अंधकारमा स्थिति में है।

अतः श्रीमान जी से निवेदन है कि प्राथी का कल्पनामूलक
 आवारपर कार्य करने का अवसर प्रदान करें जिससे मेरपनी माता तथा सभी
 परिवार का मरण पांचण कर सकूँ। महान कृपा होगी।

प्राथी

जियाराम

पुत्र

निहार

रम - आशागढ़ तिवारी का पूरा

दिन १६/८/८४

पा० कट्टेहरी जनपद के जाबाद।

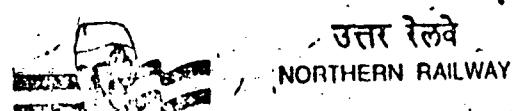
Tmc City

Aftab

Kabir Deo

Page A-4

P-12
A25



Office of the Asstt: Engineer
N. Rly. Faizabad Dtd 9/3/19

NO. 51E1CG/89

The Distt. Magistrate (Const. Secy.)
N. Rly. Faizabad

Sub: Application of Sri Jai Ram & Ram Nikore
for appointment on compassionate ground.

In continuation to this office letter of even
no. dated 7.9.89, enclosed, please find herewith
the following document again for your further
disposal.

1. An application of comt. Nikore & son Sri Ram Nikore
2. An application of Sri Jai Ram & Ram Nikore
3. Photo Stick Copy of T.C of Sri Jai Ram & Ram Nikore
4. Pass port size photograph of Sri Jai Ram & Ram Nikore

DA
As above

2. Asstt: Engineer
P. N. Rly. Faizabad

One Copy

Attested

1/9/89
Advocate

Mr. AY
Shri Ram Nath से प्रार्थना प्राप्त दद्य ३० रुपये

लक्ष्मण ।

लेखन में :-

सविसय निवेदन है कि प्रार्थिनी के पति स्व० श्री रामनिहार पूरा श्री
प्रगल्भम शास्त्रार्थ सिवारी का पूरा पां० कट्टहरी वाना गांसाहींज जन्मद
फौजाबाद का रखे बाला है। आरे गंगा नं० ५ लेपथ निरीदाक लाली के
अथोनस्थ का वर्णन है। उनका दर्शक दिनांक २८-४-४४ दिन रविवार समय लाढ़े
बजे रात्रि में लाए गया था प्रार्थिनी स्व० और राम निहार लाली की पहनी ही।
दर्शक के पश्चात परिवार के सभी विवेषणक ला आईं साक्ष नहीं हैं। इसलिये
परिवार की स्थिति बहुत दबावी है।

अतः श्री मान जी से निवेदन है कि प्रार्थिनी के लक्ष्मण जिवा रुप
पुत्रस्व० राम निहार का विष्णुमूर्ति शास्त्रार पर वार्द्धक स्तर का अवसर प्रदान करें।
जिससे प्रार्थिनी तथा परिवार का भ्रमण परिष्परण हो सके। महान द्वापाकारी।

प्रार्थिनी

निहारी

पत्नी श्री राम निहार

ग्राम - शास्त्रार्थ सिवारी का पूरा

पां० कट्टहरी जिल्हा अजमावाद।

R.I.F. Pmt. Nihari
late Sri Ram Nihari
W.C. ex-gangajam f P.M.R.D.L

DRM-Lko
Forwarded Please

25/4/90

द्वं द्वं निरायक
३० रुपये

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25/4/90

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(25/11/85)
D.R.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
CIRCUIT BENCH LUCKNOW.

versus

Union of India and others. Opposite Parties.

ANNEXURE NO:

APPOINTMENT ON COMPASSIONATE GROUNDS.

Railway Board's letter No.E(NG) II-84/RC-I/174
dated 25.6.1985.

In the meeting of the Departmental Council of the J.C.M. held in December, 1984, the Staff Side pointed out that instructions issued by this Ministry in regard to appointment on compassionate grounds are not being observed by the Railways in their proper spirit. In particular, they mentioned the following types of difficulties faced by the railway employees or their families in the matter of appointment on compassionate grounds in accordance with the instructions issued by this Ministry, from time to time:

- (i) The written test held for adjudging the suitability of a candidate appointment, is of an unduly high standard. The test should be consistent with the spirit of Board's instructions of appointment on compassionate grounds.
- (ii) If a ward is not found suitable for Group 'C' post, he is offered appointment in Group 'D' posts, instead of considering him for appointment to another Group 'C' post.

*True Copy
attested
Kalyan
Barozzi*

(iii) Appointments are not made within a short

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Ans. A-S

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time as envisaged in the instructions.

(iv) Wards of Group 'D' staff are offered appointment only in Group 'D' posts even though they have the requisite qualifications for and are suitable for appointment in Group 'C' posts.

In this connection, attention of the Railway Administration is invited to this Ministry's letter No.E(NG) II-83/RCI/73 dated 18.1.1984 in which the Railways etc. were advised to consider requests for appointment on compassionate grounds sympathetically and within the framework of the instructions issued by this Ministry, from time to time. In so far as afore-mentioned points raised by the Staff Side are concerned, attention is invited in particular to the following:-

(i) As clarified in this Ministry's letter No.E(NG) III/79/RC-1/62 dated 5.3.82, while a suitability test is to be held for judging the suitability of an applicant for compassionate appointment, the standards for the same need not be rigid. It was added that it has only to ensured that the persons concerned would be in a position to discharge the duties of the post being offered to him and also the test is designed to assess the aptitude of the person for the particular job.

(ii) If the ward possesses the prescribed minimum educational qualification, he should be considered for appointment in a Group 'C' post for which he may be suitable and eligible. If, however, he is

*True Copy
attested
Kishore
Sarkar*

Contd... 31

Annex A 5

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he is found unsuitable for one Group 'C' posts, he should be considered for an alternative Group 'C' post for which he is eligible and suitable.

(iii) Railway should endeavour to make compassionate appointments as early as possible.

(iv) It is not necessary that the ward of a Group 'D' employee should be appointed in a Group 'D' post only. If such a ward is eligible for compassionate appointment and possesses the qualification prescribed for a Group 'C' post in which compassionate appointment is permissible, his case for such appointment should be considered.

The Ministry of Railways desire that the instructions should be adhered to in their proper spirit.

One copy
Attested
K. S.
M. Chawla

(17)

Copy of Railway Board's letter No.E(NG)III/78/RC1/1 dated 30-4-1979, addressed to the General Managers, All Indian Railways.

Sub: Appointment on compassionate grounds.

In supersession of all previous instructions on the subject, the Ministry of Railways have decided that cases for appointments on compassionate grounds should be dealt with keeping the following instructions in view:-

- (1) Dependent relatives of those Railway employees who lose their lives in the course of duty or get so crippled that they cannot do any work (this also in the course of duty) e.g. loco and traffic running staff in charge of trains involved in accidents, should be compensated for the loss of their support by offering them appointment. The definition of dependent for this purpose will be the same as for Pass Rules. Where no such dependent with necessary qualifications for employment is available, appointment may be offered under the personal orders of the G.M, to a nephew or another relative who can be expected to function as the breadwinner of the family.
- (2) Appointments on compassionate grounds can also be made in the case of staff who die in harness but in such cases if persons being overlooked son/daughter/widow of the employee. 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. Such case should be kept pending only for 5 years after which the claim will lapse. However, in cases coming under priority (4)(i) below, if an appointment could not be made within five years due to the son/daughter being minor, the GM may personally authorise relaxation of the 5 year limit in deserving cases.
- (3) The appointments on compassionate grounds may also be offered in cases where the employees while in service become crippled, develop serious ailments like heart diseases, cancer, etc. for otherwise become medically declassified for the job they are holding. If no alternative job with the same emoluments can be offered to them, one son/daughter should be eligible for compassionate appointment if such an employee opts to retire.
- (4) The following should be order of priority to be followed while offering appointment on compassionate grounds:-
 - (i) Dependents of deceased employees

To be
affixed
K.S./Daw

(i) Dependents of employees who die or are permanently crippled in the course of duty;

(ii) Dependents of employees who die in harness as a result of Railway accidents when off duty; and

(iii) Dependents of employees who die in service or medically incapacitated.

(5) When offering appointment on compassionate grounds to a widow, son or daughter, it need not be checked up whether another son/daughter is already working. But there should in no case be more than one appointment against one death/medical incapacitation, e.g. it should not be permitted that after one appointment is made, later the family wants that another son/daughter be employed in lieu or in addition.

(6) A time limit of one month should be observed within which appointments should be given in priority (i) cases and three months for cases relating to priority (ii) and (iii) laid down in para (4) above subject to a position being available.

(7) To accommodate illiterate widows of the deceased railway employees, posts of waiting room bearers may be exclusively reserved for them.

(8) For the purpose of compassionate appointments, upper age limit may be freely relaxed on the merits of the cases. However, educational qualification required for the post to be offered should not in any case be relaxed. Wherever the GM feels such a relaxation is absolutely necessary such cases should be referred to the Ministry of Railways.

(9) The power to make appointments on compassionate grounds is to be exercised only in recruitment grades. No appointment should be made in an intermediate grades i.e. on which is filled purely by promotion.

(10) As the minimum educational qualifications are to be insisted upon in each and every cases, there is no need to hold a written test and /or interview to assess the suitability of the candidate proposed to be appointed on compassionate grounds.

(11) The candidates who are to be offered appointments may be appointed on submission of character certificates from two Gazetted Officers.

Some may be applied
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K. S. D. 13
K. S. D. 13

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(12) In the cases of appointment of Group C posts the powers may be exercised by the CPOs in consultation with the Head of Department concerned. In the case of Group D posts the powers to make such appointments should be delegated to the Divisional Superintendents/Divisional Railway Managers. Statistics of such appointments offered or denied should be maintained by the Headquarters Office.

(13) In case any other deviation from the above instructions is considered necessary in any particular case, the same should be obtained from the Ministry of Railways before any offer of appointment is made.

(14) For proper enforcement of priorities separate priority list be maintained on each unit as per para 4, the date of priority being from the date of eligibility and all appointments be made strictly in his order. Where for any special reasons there is a case for overlooking the priority list, sanction of next higher authority (CPO for appointments to Group D posts and GM in case of appointments to Group C posts) must be obtained giving details for ignoring the priority and the list of persons being overlooked. Such cases should be rare.

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attested
PKB/Adm Col

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW.

O.A. No. 201/90 (L)

Smt. Nihori and anotherApplicant
Versus
Union of India and others Respondents

REPLY ON BEHALF OF RESPONDENTS

I, Q.N. Thakur, presently posted as *Asstt. Divisional Manager*
Officer in the Office of the Divisional Railway
Manager, Northern Railway, Lucknow solemnly state as
under:-

1. That the undersigned is presently posted as
in the Office of the Divisional Railway
Manager, Northern Railway, Lucknow and is looking after
the above mentioned case on behalf of the respondents.
The undersigned is competent and duly authorised by the
respondents to file this reply on their behalf and has
read and understood the contents of the above mentioned
application.

2. That the contents of paragraph 1 of the application
are not admitted. It is respectfully submitted that the
applicants had earlier applied for appointment of
applicant No.2 on Class IV post on compassionate grounds
on 6.6.1984 and 8.7.1985 and the competent authority,
after due application of mind had rejected the aforesaid
applications vide his letter No. E/WB/ACG/2766 dated
6.11.1985, a true copy of which is being annexed herewith
as ANNEXURE No.A-1 to this reply. Hence, the averment of
the applicants to the effect that there is no impugned
order, is patently wrong, and hence, the same are denied.
It is further submitted that there is no appeal or
revision against the order dated 6.11.1985 and the said
order can not be challenged before this Hon'ble Tribunal
in view of the provisions of Section 21 of the
Administrative Tribunal Act, 1985.

3. That the contents of paragraph 2 needs no comment.

4. That the contents of paragraph 3 of the application are not admitted. It is respectfully submitted that in view of the submissions made in the foregoing paragraph 2 of this reply the present application moved by the applicants before this Hon'ble Tribunal is barred by time as the earlier the applicant No.1 had moved applications before the competent authority in order to get her son Sri Jiya Ram Verma appointed in Class IV post on 6.6.1984 and 8.7.1985, which were rejected vide letter No.E/WB/ACG/2766 dated 6.11.1985. Moreover, the applicants have not come before this Hon'ble Tribunal with clean hands as they have concealed this material fact in their application, and have tried to circumvent the limitation provision in Section 21 of the Administrative Tribunal Act, 1985 by moving an application before the Respondent No.2 again on 4.9.1989 in order to keep it within limitation artificially.

5. That the contents of paragraph 4.1 are admitted.

6. That the contents of paragraph 4.2 as stated are not admitted. It is most respectfully submitted that Sri Ram Nihore, ex-Gangman absented himself from duty from 9.2.1979 without any authorisation or sanctioned leave and did not report for duty thereafter, and he died natural death on 29.4.1984. In view of the provisions of PRINTED SERIAL No.6110, in case a temporary employee who has completed 3 years' continuous service and treated like permanent employee, remains absent on extra ordinary leave beyond the limit of 5 years, his services would automatically stand terminated after the expiry of 5 years from such absence. In the present case, Sri Ram Nihore was not even on any kind of leave, and even if period of 5 years from 9.2.1979 is taken as a extra ordinary leave, his services would automatically stand terminated with effect from 8.2.1984 (After noon).

7. That the contents of paragraph 4.3 are denied for want of knowledge.

8. That the contents of paragraph 4.4, as stated, are not admitted. As it has been mentioned in foregoing paragraph 4 of this reply, the applicant No.1 had earlier moved two application for appointment of applicant No.2

on compassionate grounds on 6.6.1984 and 8.7.1985, both of them were rejected by the order contained in ANNEXURE No.A-1 to this reply, against which no appeal or revision lies under rules. On the basis of representation preferred by the Union/s, the matter had been referred to the General Manager, Northern Railway, Head Quarter's Office, New Delhi, and is pending consideration. The applicants have again moved an application on the same ground on 4.9.1989 in order to create jurisdiction under the limitation clause in Section 21 of the Administrative Tribunal Act,1985 artificially in order to mislead this Hon'ble Tribunal.

9. That the contents of paragraph 4.5 need no comment.
10. That the contents of paragraph 4.6 need no comment.
11. That the contents of paragraph 4.7 are denied for want of knowledge,
12. That the contents of paragraph 4.8 are admitted only to the extent that the application of the applicant was forwarded by the Respondent No.3 to the Respondent No.2 by his letter quoted in this letter. However, it is most respectfully submitted that the application of the applicants dated 4.9.1989 itself was not maintainable on the grounds that (i) The earlier two applications moved on 6.6.1984 and 8.7.1985 had already been rejected on 6.11.1985; (ii) Even if the application/s moved by the applicants on subsequent date be treated as the first ones, this claim would be barred by time as provided under paragraph (2) of the Railway Board's letter No.E (NG)III/78/RC 1/1 dated 30.4.1978, a copy of which has been annexed as ANNEXURE No.A-6 to the application by the applicants themselves, and no relaxation has so far been granted by the General Manager as provided under para (2)
13. That the contents of paragraph 4.9 are not admitted in view of the submissions already made in the foregoing paragraphs of this reply.
14. That the contents of paragraph 4.10 need no comment.

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15. That in view of the submissions already made in the foregoing paragraphs, the contents of paragraph 4.11 are not admitted.
16. That the contents of paragraph 4.12, as stated, are not admitted. It is respectfully submitted that the applicant No.2 is not eligible to be appointed on compassionate grounds.
17. That the undersigned is advised to state that the grounds mentioned in paragraph 5 of the application are not tenable in the eye of law and hence, the contents of paragraph under reply are not admitted.
18. That the contents of paragraph 6 of the application need no comment.
19. That the contents of paragraph 7 of the application need no comment.
20. That in view of the submission already made in this reply, the undersigned is advised to state that the applicants are not entitled for any relief as claimed by them in the paragraph under reply.
21. That the contents of paragraphs 9, 10, 11 and 12 need no comment.

Lucknow, dated :
Januray , 1991.

VERIFICATION

[Signature]
Asstt. Div. Manager
Northern Railway
Lucknow

I , presently posted as in the Office of the Divisional Railway Manager, Northern Railway, Lucknow, hereby verify that the contents of paragraph 1 of this reply are true to my personal knowledge and those of paragraphs 2 (partly), 3, 4 (partly) 5, 6, 7, 8 (partly), 9, 10, 11, 12 (partly), 13, 14, 15, 16, 18, 19 and 21 are based on record and the same are believed to be true. The contents of paragraphs 2 (partly), 4 (partly) 8 (partly), 12 (partly), 17 and 20 are based on legal

advice and the same are believed to be true. That no part of this reply is false and nothing material has been concealed. So help me God.

Lucknow, dated :
Januray , 1991.

YD
Acting Inspector General
Northern Railway
LUCKNOW

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A.No. 201/90(L)

Smt. Nihori and anotherApplicant
Versus
Union of India and othersRespondents

ANNEXURE No.A-1

NORTHERN RAILWAY

No.E/WB/ACG/2766

Divisional Office,
Lucknow: Dt. 6.11.85.

Smt. Nihori,
W/O late Ram Nihore Ex Gangman,
Village-Ashagarh (Tiwari Ka Purwa)
P.O.Kathari,
Distt. - FAIZABAD.

Sub: Appointment on compassionate grounds of Sri
Jiya Ram Verma S/O late Ram Nihore in Class IV
on compassionate grounds.

Ref: Your application dated 6.6.84 and 8.7.85.

The case of appointment of your son Shri Jiya Ram
Verma on compassionate grounds is not covered under the
extant rules.

Sd/- Illegible
for Divl.Railway Manager,
Lucknow.

[Signature]
Divisional Manager
Northern Railway
LUCKNOW

TRUE COPY

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A. No. 201/90(L)

Smt. Nihori and anotherApplicant
Versus
Union of India and others ... Respondents

REPLY ON BEHALF OF RESPONDENTS

I, D. K. Thakur, presently posted as Deputy General Officer in the Office of the Divisional Railway Manager, Northern Railway, Lucknow solemnly state as under:-

1. That the undersigned is presently posted as Deputy General Officer in the Office of the Divisional Railway Manager, Northern Railway, Lucknow and is looking after the above mentioned case on behalf of the respondents. The undersigned is competent and duly authorised by the respondents to file this reply on their behalf and has read and understood the contents of the above mentioned application.
2. That the contents of paragraph 1 of the application are not admitted. It is respectfully submitted that the applicants had earlier applied for appointment of applicant No.2 on Class IV post on compassionate grounds on 6.6.1984 and 8.7.1985 and the competent authority, after due application of mind had rejected the aforesaid applications vide his letter No. E/WB/ACG/2766 dated 6.11.1985, a true copy of which is being annexed herewith as ANNEXURE No.A-1 to this reply. Hence, the averment of the applicants to the effect that there is no impugned order, is patently wrong, and hence, the same are denied. It is further submitted that there is no appeal or revision against the order dated 6.11.1985 and the said order can not be challenged before this Hon'ble Tribunal in view of the provisions of Section 21 of the Administrative Tribunal Act, 1985.
3. That the contents of paragraph 2 needs no comment.

8. That the contents of paragraph 4.4, as stated, are not admitted. As it has been mentioned in foregoing paragraph 4 of this reply, the applicant No.1 had earlier moved two application for appointment of applicant No.2

7. That the contents of paragraph 4.3 are detailed for want of knowledge.

6. That the contents of Paragraph 4.2 as stated are not admitted. It is most respectfully submitted that Sri Ram Nihore, ex-Gangman absented himself from duty from 9.2.1979 without any authorization or sanctioned leave and did not report for duty thereafter, and he died naturally death on 29.4.1984. In view of the provisions of PRINTED SERIAL NO. 6110, in case a temporary employee who has completed 3 years, continuous service and treated like permanent employee, remains absent on extra ordinary leave beyond the limit of 5 years, his services would automatically stand terminated after the expiry of 5 years from such absence. In the present case, Sri Ram Nihore was not even on any kind of leave, and even if a period of 5 years from 9.2.1979 is taken as a extra ordinary leave, his services would automatically stand terminated with effect from 8.2.1984 (After noon).

5. That the contents of paragraph 4.1 are admitted.

4. That the contents of Paragraph 3 of the application are not admitted. It is respectfully submitted that in view of the submissions made in the foregoing paragraph 2 of this reply the present application moved by the applicants before this Hon'ble Tribunal is barred by time as the earlier the applicant No. 1 had moved application before the competent authority in order to get her son Sri Jiyा Ram Verma appointed in Class IV post on 6.6.1984 and 8.7.1985, which were rejected vide letter No. E/WB/ACG/2766 dated 6.11.1985, Moreover, the applicants have not come before this Hon'ble Tribunal with clean hands as they have concealed this material fact in their application, and have tried to circumvent the limitation provision in Section 21 of the Administrative Tribunals Act, 1985 by moving an application before the Respondent No. 2 again on 4.9.1989 in order to keep it within limitation artificially.

14. That the contents of paragraph 4.10 need no comment.

13. That the contents of paragraph 4.9 are not admitted in view of the submissions already made in the foregoing paragraphs of this reply.

12. That the contents of paragraph 4.8 are admitted only to the extent that the application of the applicant was forwarded by the Respondent No.3 to the Respondent No.2 by his letter quoted in this letter. However, it is most respects fully submitted that the application of the applicant dated 4.9.1989 itself was not maintainable on the grounds that (i) the earlier two applications moved on 6.6.1984 and 8.7.1985 had already been rejected on 6.11.1985; (ii) Even if the application/s moved by the applicants on subsequent date be treated as the first ones, this claim would be barred by time as provided under paragraph (2) of the Railway Board's letter No.W(NG) III/78/RG 1/1 dated 30.4.1978, a copy of which has been annexed as ANNEXURE No.A-6 to the application by the appellants themselves, and no relaxation has so far been granted by the General Manager as provided under para (2).

11. That the contents of paragraph 4.7 are denied for want of knowledge.

10. That the contents of paragraph 4.6 need no comment.

9. That the contents of paragraph 4.5 need no comment.

on compensationate ground on 6.6.1984 and 8.7.1985, both of them were rejected by the order contained in ANNEXURE NO.A-1 to the reply, against which no appeal or revision lies under rule. On the basis of representation preferred by the union, the matter had been referred to the General Manager, Northern Railways, Head Quarter's Office, New Delhi, and is pending consideration. The appellants have again moved an application under the Limitation Clause in Section 21 of the Administrative Tribunals Act, 1985 artificially in order to mislead this Hon'ble Tribunal.

15. That in view of the submissions already made in the foregoing paragraphs, the contents of paragraph 4.11 are not admitted.

16. That the contents of paragraph 4.12, as stated, are not admitted. It is respectfully submitted that the applicant No.2 is not eligible to be appointed on compassionate grounds.

17. That the undersigned is advised to state that the grounds mentioned in paragraph 5 of the application are not tenable in the eye of law and hence, the contents of paragraph under reply are not admitted.

18. That the contents of paragraph 6 of the application
need no comment.

19. That the contents of paragraph 7 of the application
need no comment.

20. That in view of the submission already made in this reply, the undersigned is advised to state that the applicants are not entitled for any relief as claimed by them in the paragraph under reply.

21. That the contents of paragraphs 9, 10, 11 and 12 need no comment.

Lucknow, dated :
Januray , 1991.

VERIFICATION

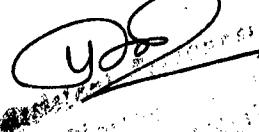
Yours
Northern Railway
Lokmanya
I.A.M. Tirkhalk, presently posted as Ass'tt General Manager
in the Office of the Divisional Railway Manager, Northern Railway, Lucknow, hereby verify that the contents of paragraph 1 of this reply are true to my personal knowledge and those of paragraphs 2 (partly), 3, 4 (partly), 5, 6, 7, 8 (partly), 9, 10, 11, 12 (partly), 13, 14, 15, 16, 18, 19 and 21 are based on record and the same are believed to be true. The contents of paragraphs 2 (partly), 4 (partly) 8 (partly), 12 (partly), 17 and 20 are based on legal

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advice and the same are believed to be true. That no part of this reply is false and nothing material has been concealed. So help me God.

Lucknow, dated :
Januray , 1991.


Yours
Officer

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MM

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

O.A.No.201/90(L)

Smt. Nihori and anotherApplicant
Versus
Union of India and othersRespondents

ANNEEXURE No.A-1

NORTHERN RAILWAY

No.E/WB/ACG/2766

Divisional Office,
Lucknow: Dt. 6.11.85.

Smt. Nihori,
W/O late Ram Nihore Ex Gangman,
Village-Ashagarh (Tiwari Ka Purwa)
P.O. Kathari,
Distt. - FAIZABAD.

Sub: Appointment on compassionate grounds of Sri
Jiya Ram Verma S/O late Ram Nihore in Class IV
on compassionate grounds.

Ref: Your application dated 6.6.84 and 8.7.85.

The case of appointment of your son Shri Jiya Ram
Verma on compassionate grounds is not covered under the
extant rules.

Sd/- Illegible
for Divl.Railway Manager,
Lucknow.

TRUE COPY


Northern Railway
LUCKNOW

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH.

REGISTRATION NO OA 201 L of 1990.

Smt Nihori vs Union of India and others.

APPLICATION UNDER ORDER 6 RULE 17 CPC.

The humble petitioner/applicant respectfully sheweth as under:-

1. That the applicant has filed application for seeking relief of appointment of her son Shri Jia Ram son of S Ram Nihore.
2. That the applicant's son Sri Jia Ram has not been appointed on compassionate grounds.
3. That under legal advice it has been found necessary to implead my son Sri Jia Ram as applicant No.2.
4. That the impleading of Sri Jia Ram my son in the title is essential for effective adjudication of the case.

5. WHEREFORE it is prayed that the name of Shri Jia Ram be allowed to be added as applicant No. 2 and the amendments mentioned in the schedule attached be allowed to be incorporated in the application.

LUCKNOW.
DATED: 24/7/90

R J 9 of 8/1
Nihori
K. S. APPALANT.
Adarsh

Verification.

I, Smt. Nihori Widow of Ram Nihore, resident of village Ashegarh, Faizabad, the applicant, do hereby verify that the contents of Pages 1 to 4 of the application and amendments shown in the attached schedule are true to the best of my knowledge and legal advice.

Signed and verified this 24 day of July, 90
at Lucknow.

Nihori
Lucknow. 24/7/90
Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
LUCKNOW BENCH.

Registration No. OA 201L of 1990. (46)

Smt Nihori Vs Union of India and others.

SCHEDULE OF AMENDMENTS.

1. In the title of the application the name of Shri Jia Ram be added as applicant No.2.
2. In Column of Para 1 "the applicant No.2" be added after Sri Jia Ram.
3. In Column 4 Para 4-4 Page 2 " Applicant No.2" be added after Sri Jia Ram.
4. Page 2 Column 1 para 4-5 " applicant No.2" be added after Sri Jia Ram.
5. Page No.3 column 6, Para 4-8 " applicant No.2" be added after Sri Jia Ram.
6. Page No.3 column No.2 para 4-11 "applicant No.2" be added after applicant's son.
7. Page 5 ~~and~~ Para 8 -1 column 3 "the applicant No.2" be added after applicant's son.
8. Page 6 line No.2 the word "applicant's son No.2" be added after my son.

APPLICANT.