

FORM NO. 21
(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL - HYDERABAD BENCH : HYDERABAD

On 12/10/1987 .. 1242 of 1997
Smt. U. A. Arunma Applicant(s)

versus

The Sri. D. P. O. S. T. Ry. V. Pathan. Respondent(s)
4205

INDEX SHEET

Serial No.	Description of Documents	Pages
Docket Orders	—	✓
Interim Orders	—	✓
Orders in MA (s)	—	✓
Orders in (Final Orders)	—	✓

23-9-87 12 to 1/2

Certified that the file is complete
in all respects.

Signature of
Dealing Hand
(In Record Section)
93/10/97

Signature of S.O.

Dealing Hand
10/10/97

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A. No. 1242 of 1997.

U. Appanna

Applicants(s).

VERSUS

The Sr. Divt.
Personnel Officer,

S.E.Rly. Visakhapatnam L 2as.
(Respondents).

Date	Office Note	ORDER
23-9-97		of ordered accordingly at the admission stage itself. Order on separate sheet. No costs.


H.R.A.
M(A)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SET HYDERABAD.

ORIGINAL APPLICATION NO. 1242 OF 1997.

Smt U. Appamma

(Applicants(s))

VERSUS

Union of India, Repd., By,

Sr. Divl. Personnel Officer, S&G Railway

Unbalepatnam & 209

Respondents(s)(s)

The Application has been Submitted to the Tribunal by Shri
Shri P. Krishna Reddy Advocate/Party
in person Under Section 19 of the Administrative Tribunal
Act. 1985 and the same has been scrutinised with reference to
the points mentioned in the check list in the light of the
provisions in the Administrative Tribunal (Procedure) Rules
1987.

The application is in order and may be listed for Admission
No. _____

Scrutiny Asst. 19/9/97

Prabhakar
DEPUTY REGISTRAR (JUDL).

10. Is the application accompanied ITO/DD, for Rs.50/- Yes.

11. Have Legible copies of the annexure duly attested been filed. Yes

12. Has the applicant exhausted all available remedies. Yes

13. Has the Index of documents been filed and pagination done properly. Yes

14. Has the declaration as a required by item No. 7 of form, I been made. Yes

15. Have required number of envelops (file six) bearing full addresses of the respondents been filed. Yes

16. (a) Whether the relief sought form arise out of single cause of action. Yes

(b) Whether any interim relief is prayed for, Yes

17. In case an M.A for condonation of delay is filed, it supported by an affidavit of the applicant. —

18. Whether it is cause can be heard by a single bench. Yes

19. Any other points. —

20. Result of the scrutiny with initial of the scrutiny clerk.

Scrutiny Assistant.

May be numbered P.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No. 3062/97

Report in the Scrutiny of Application.

Presented by Sh. P. Krishnam Reddy Adv Date of presentation.

19.9.97

Applicant(s) Sh. U. Appanna

Respondent(s) Sr. Div. Pers. Officer, SGRailway,
Mysorepatnam & 2nd

Nature of grievance DCRy

No. of Applicants 1 No. of Respondents 3

CLASSIFICATION.

Subject No. Payment of DCRy (1) Department Railways (No)
(D).

1. Is the application in the proper form, (three complete sets in paper books form in the two complitions). Y
2. Whether name description and address of all the parties been furnished in the cause title. Y
3. (a) Has the application been fully signed and verified. Y
(b) Has the copies been duly signed. Y
(c) Have sufficient number of copies of the application been filed. Y
4. Whether all the necessary parties are impleaded. Y
5. Whether English translation of documents in a Language, other than English or Hindi been filed. Y
6. Is the application on time, (see section 21) Y
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. Y
8. Is the application maintainability. (U/S 2, 14, 18, or/U/R. 8 Etc.,) Y
9. Is the application accompanied, duly attested legible copy been filed. Y

4 CENTRAL ADMINISTRATIVE TRIBUNAL (YARD, 3, 4 BUNCH) HYDERABAD

I N D E X S

Case No. 1242 of 1997/

CASE FILE

Q. Affanna.

V A S U S

The Sr. Divisional Personnel
Officer - S-E File. Vishakapatna
2 m/s.

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5.	Spare Copies	3
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To direct the respondents to pay the applicant the quantum
and legal expenses incurred by her by declaring the
impugned order dt 22-4-97 as illegal.

Swish

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT HYDERABAD.

O.A.NO. 1242 OF 1997.

D.G.R.C.J.
(D)

Between:

Smt. U. Appamma. Applicant

2/RAILWAY

And:

1. The Sr. Divisional Personnel Officer,
S.E. Railway, Visakhapatnam and
2 others. Respondents.

Railways 32

MATERIAL PAPER INDEX AND CHRONOLOGICAL EVENTS

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3.	Annexure-II 22-4-97.	Impugned letter issued by the 1st respondent in Lr. No. WPS/Engg/ONR/ 527/93.	7
4.	Annexure-III 12-5-1997.	Legal Notice issued by the Applicant's counsel.	8 - 9

P. S. Salwan

Hyderabad,
Dt. 11-9-1997.

Counsel for the Applicant.

*Recd
19-9-97
By N.R. Devi
For N.R. Devi*



3
APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT., 1985.

For Use in Tribunal Office:-

DATE OF FILING

OR
DATE OF RECEIPT
BY POST.

REGISTRATION NO:

SIGNATURE:

REGISTRAR:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO. 1242 OF 1997.

Between:

Smt.Uppada Appamma,
w/o.late Akkayya, aged about 50 years,
Thalaganapeta,
Kotabommali Mandalam,
Srikakulam District.

... Applicant.

And:

1. The Divisional Personnel Officer,
South Eastern Railway,
Visakhapatnam.
2. The Divisional Railway Manager,
South Eastern Railway,
Visakhapatnam.
3. The Sr.Divisional Engineer (East),
South Eastern Railway,
Visakhapatnam.

... Respondents.

DETAILS OF APPLICATION

1. Particulars of the Applicant:-

The particulars of the applicant is same as given
in the cause-title.
The address for service of all notices and process
on the abovenamed applicant is that of his counsel
M/s.P.KRISHNA REDDY & SMT.P.SARADA, ADVOCATES, 3-5-899,
HIMAYATHNAGAR, HYDERABAD 29.

2. Particulars of the Respondents:-

The address for service of all notices and process
on the abovenamed respondents are same as given in
the cause-title.

3. Particulars of the order against which application is made:-

- i) Order No. : No. WPS/Engg/ONR/527/93
- ii) Date. : 22-4-97.
- iii) Passed by. : Ist respondent.
- iv) Subject in brief:- Payment of DCRG.

4. Jurisdiction of the Tribunal:-

The applicant declares that the subject matter of the present O.A. is within the jurisdiction under Sec. 14(1) of the Administrative Tribunals Act, 1985.

5. Limitation:-

The applicant further declares that this O.A. is filed within the limitation as prescribed in Sec. 21 of the Administrative Tribunals Act, 1985.

6. Brief Facts of the Case:-

(a) The applicant herein is the widow of one Uppala Akkayya who died on 1-5-93, while working as a Gang Man, in gang No. 7 of P.W.I., Srikakulam Road, S.E. Railway. Accepting the applicant as legal heir of late Akkayya, the applicant is being paid pension and she was given all the benefits as a heir of late Akkayya except payment of D.C.R.G. The applicant filed number of representations and caused a notice also issued by her advocate. As there was no response for the representations of the applicant and also to the notice of the counsel for the applicant, she filed P.O.G.M.P. No. 3 of 96 before the Assistant Commissioner of Labour, Srikakulam (the Controlling Authority under payment of Gratuity Act). The respondents filed the counter. The authority by its order dt. 29-3-97 was pleased to dismiss the petition, since the deceased employee was a Railway Employee (Railway Gangman), the payment of gratuity Act has no application. It was further observed in the order that it was open to the applicant to approach the Central

Administrative Tribunal.

(b) As the things stood thus, the second respondent has sent a communication to the applicant in No. WPS/Engg/ONR/ 527/93, dt. 22-4-97 informing her that in pursuance of the order of the 2nd respondent dt. 22.8.1996, late Akkayya was held responsible for the theft of the Railway materials amounting to Rs. 30,450/- and where as the certified D.C.R.G. amount is only Rs. 26,085/-. In addition to that it was mentioned in the impugned letter that the applicant's husband is due to the department another amount of Rs. 1,124/- representing over payment. On receipt of the communication dt. 22-4-97 from the 1st respondent the applicant caused a notice issued by Ch. Ramesh, Advocate bringing to the notice of the 1st respondent that neither late Akkaiah nor the applicant were informed about any enquiry regarding the loss of Railway Material. As stated above the applicant's husband died on 1-5-93. At the time of his death he was only a Gangman. Hence the question of he was having Railway Material worth more than Rs. 30,000/- does not arise. Every Gangmen at the end of the day has to surrender his tools to P.W.I.. For reasons best known to him the 1st respondent has issued impugned communication dated: 22-4-1997.

(c) It is clear from the impugned letter that the applicant's husband is entitled for Rs. 27,085/-. But by introducing imaginary figure of loss of material and over payment, the applicant is sought to be deprived of her gratuity amount due to her. In the letter it is not mentioned in what enquiry it was held that there was theft of Railway Material during the life time of the applicant's husband. Neither a criminal case nor departmental ~~enquiry~~ enquiry taken place. Taking advantage of fact that the applicant's husband ~~now~~ ~~has~~ has died the unaccountable stock is

attributed to the late applicant's husband by way of theft to save the interested parties. The order of the 1st respondent is totally illegal and opposed to principles of natural justice.

(d) In the notice issued by the advocate the applicant had specifically requested to furnish the copy of the order of the Divisional Railway Manager mentioned in the impugned letter dt. 22-8-96 and request for further information. But the respondents have not chosen to furnish any information.

7. Relief Sought:-

In view of the facts mentioned in para 6 above, the applicant herein prays that this Hon'ble Tribunal may be pleased to declare the order of the 1st respondent in letter No. WPS/Engg/ONR/527/93, dt. 22-4-97 is illegal and direct the respondents to pay the applicant the gratuity amount of Rs. 26,085/- with interest @ 18% from 1-5-1993 and also an amount of Rs. 3,000/- incur as expenses by the applicant for causing notices by the advocate and also for filing the O.A., and pass such other order or orders in the interests of justice.

8. Interim Relief:-

It is also prayed that this Hon'ble Tribunal may be pleased to direct the respondents to pay the applicant the gratuity amount of Rs. 26,085/- forthwith, pending the above O.A., and pass such other order or orders in the interests of justice.

9. Details of remedies exhausted:-

The applicant submits that he has no other alternative or efficacious remedy except to approach this Hon'ble Tribunal by way of filing this O.A.

10. Matter not pending with any other court etc:-

The applicant further declares that the matter

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regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal.

11. Particulars of the Postal Order in respect of the Application Fee:-

i) Postal Order No. 812687131

ii) Date. 19-9-1997

iii) Amount of Rs.50/- (Fifty only). *(Rs.50/-)*

~~RECEIVED
19.9.1997
S.R.D. REC'D.~~

12. Details of Index:- An Index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of Enclosures:- All the material papers are filed duly indexing the same.

Verification

I, Smt. Uppada Appamma, w/o. late Akkayya, aged about 50 years, R/o. Thalaganapeta, Kotabommali Mandalam, Srikakulam District, do hereby declare that the contents stated above in paragraphs 1 to 13 are true to the best of my knowledge, belief and information.

I have not suppressed any material facts of the case.

L.T.I. of U. Appamma

P. S. S.

Counsel for the Applicant.

APPLICANT.

Hyderabad,
Dt. 11-9-1997.

To

The Registrar,
Central Administrative Tribunal,
Hyderabad.

In the Court of the Controlling Authority under Payment of Gratuity Act, Srikakulam (Asst. Commissioner of Labour, Srikakulam

Present : Sri J.A.S. Krishna Rao,
Station : Srikakulam.

P.O.G.MP.No. 3/96.

Between

Smt. Uppada Appamma,
W/o Late Akkayya,
Thalaganapeta,
Kotabommali Mandalam,
Srikakulam Dist.

Applicant.

And

1. The Divisional Personnel Officer, S.E.Rly., Visakhapatnam.
2. The Divisional Railay Manager, S.E.Rly., Visakhapatnam.
3. The Sr. D.E.N. (East) S.E.Rly., Visakhapatnam.

Opposite parties.

This application coming for final hearing before me and upon perusing the application and material papers on record and upon hearing the arguments and having stood up for consideration the following Orders are passed.

O R D E R :-

This is a case filed by Smt. Uppada Appamma for payment of gratuity from the South Eastern Railway as she is the wife of Sri Uppada Akkayya who served as Gangnam in S.E. Rly and died on 1.5.1993.

The Opposite parties represented by Opposite party I filed a counter in which he has raised the question of jurisdiction.

After perusing the counter along with copies of relevant letters addressed by the railway board, I dismiss this petition since Sri U. Akkayya was a Railway employee and Payment of Gratuity Act is not applicable to him. However the petitioner is at liberty to approach Central Administrative Tribunal for any claim in this regard.

(Given under my hand and seal of this Authority on this
29th day of March, 1997).

To
The above parties.

JAS
29.3.97
(AUTHORITY)
Asst. Commissioner of Labour
SRIKAKULAM.

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-7- Annexure - II

By Regd Post & Ack'dee

South Eastern Railway

No. WPS/Engg/ONR/527/93

Office of D.R.M(P)/WAT,
Dt. 22.4.97.

To

Smt. Uppada Appamma,
W/o. late Akkayya,
Thalagannapeta,
Kotabommali Mandalam,
Srikakulam Dist.,

Sub:- Payment of DCRG to late U. Akkayya,
Ex. G. Man/CHIE expired on 01-5-1993.

As per DRM/Engg/WAT's letter No. WEX/9/CC dt. 22.8.1996
late U. Akkayya was held responsible for the theft of the
Railway materials amounting to Rs. 30,450-00 and where as his
certified DCRG amount is only Rs. 26,085/- In addition to
this, Railway dues i.e., over payment of pay Rs. 1124-00 and
outstanding U. B. loan etc., are also to be recovered.

In view of the position explained above late Akkayya
has to pay the Rly. administration the balance of amount
after adjusting his DCRG. Hence the question of payment of Arrears
to late Akkayya does not arise

W. Mal
Sr. Divl. Personnel Officer/Waltair

Copy to: Sr.DEN/Co-ord/ for information.

OS/Legal cell.

VL:

T.V.

R. S. Sodha

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Therefore, on behalf of my client I hereby call upon you to pay the D.C.R.G. amount of Rs.26,085/- within a week from the date of receipt of this notice and also request you to supply my client with the letter of D.R.M./Engg/WAT/No.WEX/9/CC, dated 22.08.96, otherwise my client will have no alternative, except to approach a court of law for its redressal and you will be held liable for the costs and expenses, that my client may likely to incur.

Date: 12.05.1997.

Advocate.

ofc
A/C

TM
R. Sardar

દીન નાથી NOT INSURED		નાના 700	દાના 11
સ્ટેમ્પ ની શરીર સ્ટેમ્પી ના દ્વારા સ્ટેમ્પ ની શરીર સ્ટેમ્પી ના દ્વારા સ્ટેમ્પ ની શરીર સ્ટેમ્પી ના દ્વારા સ્ટેમ્પ ની શરીર સ્ટેમ્પી ના દ્વારા		નાના 700	નાના 11
Amount of Stamps affixed	Rs. 10/-	No.	8 -
Received a Registered	(A)	Date	12.05.97
સ્ટેમ્પ ની શરીર સ્ટેમ્પ ની શરીર સ્ટેમ્પ ની શરીર	12.05.97	સ્ટેમ્પ ની શરીર સ્ટેમ્પ ની શરીર સ્ટેમ્પ ની શરીર	12.05.97
Addressed to	Mr. D. S. Venkateswaran	Signature of Recipient	

Aradalevalasa

: 12.05.1997.

The Senior Divisional Personnel Officer,
S.E. Railway, Dondaparthi, Waltair,
Visakhapatnam.

Under the instructions of my client Smt. Uppada Appamma, W/o late Akkayya, R/o. Thalagampeta of Kotabommalu Mandi, Srikakulam District, I issue the following notice to you, as follows:

My clients' husband late Uppada Akkayya, S/o. Appayya worked as a Gangman in Gang No.7 under the P.W.I. of Srikakulam Road. While my clients' husband was in service he died on 1.5.93. My client being a class-I legal-heir she claimed D.C.R.G. amount. But the amount was not paid inspite of repeated representations, she addressed a representation dated 20.12.94 to the D.R.M., S.E. Railway, Waltair and the copies of the same were also sent to you and the Senior D.E.N. Having received the same nothing was heard by my client a representation through her advocate dated 15.05.95 was sent to you and copies were also sent to the D.R.M. and the senior D.E.N. Having received the Legal representation, none of you either given any reply or taken any action, my client filed a case before the Payment of Gratuity authority, Srikakulam. The authority advised my client to approach the Administrative Tribunal.

Meanwhile through your letter No. WPS/Engg/OMR/527/93 dated 22.04.97 informed my client that as per DRM/Engg./Wat. letter No. WEX/9/CD, dated 22.8.96 late Akkayya was held responsible for the theft of Railway material amount to Rs. 30,450/- and his D.C.R.G. amount of Rs. 26,085/- is to be recovered.

My clients submits that her husband was never held responsible for any of the alleged theft. He is only a Gangman. During his service no enquiry was also conducted and even subsequent to his death. My client was never informed about the alleged theft. You are not entitled to recover the D.C.R.G. amount as alleged in your letter dated 22.04.97. My client is also not aware of the letter of D.R.M., dated 22.08.96.

....2....

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO. 1242/97

DATE OF ORDER : 23-09-1997

Between :-

Smt.Uppada Appamma

... Applicant

And

1. The Sr.Divisional Personnel Officer,
S.E.Railway, Visakhapatnam.
2. The Divisional Railway Manager,
S.E.Railway, Visakhapatnam.
3. The Sr.Divisional Engineer (East),
S.E.Railway, Visakhapatnam.

... Respondents

-- -- --

Counsel for the Applicant : Shri P.Krishna Reddy

Counsel for the Respondents : Shri C.V.Malla Reddy, SC for Rlys.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A))

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... 26

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri P.Krishna Reddy, counsel for the applicant and Sri C.V.Malla Reddy, standing counsel for the respondents.

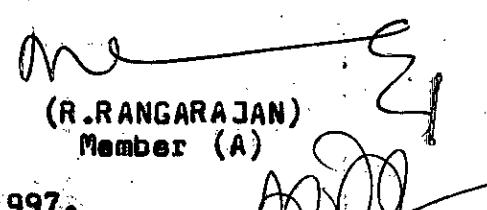
2. The applicant is the wife of one late Uppada Akkayya, who died on 1-5-93 while working as Gangman in Gang No.7 under PWI, Srikakulam Road, S.E.Railway. It is stated that the applicant was paid family pension. The leave salary of the deceased employee and other final settlements were paid ^{also} except DCRG. The applicant filed a POG MP No.3/96 before the Asst.Commissioner of Labour, Srikakulam for releasing the DCRG amount. That was disposed of by judgement dt.29-3-97 (Annexure-I) ~~to the OA~~ giving opportunity to approach C.A.T. for claim in this regard. Thereafter the applicant received the impugned letter No.WPS/Engg/DNR/527/93 dt.22.4.97 (Annexure-II to OA). It is stated in the letter that late Sri Uppada Akkaya is responsible for theft of Railway Material amounting to Rs.30,450-00 and because the responsibility has been fixed on the husband of the applicant, the DCRG amount was not paid to the applicant. Against that order she gave a notice to Respondent No.1 stating that her husband was never held responsible for any theft during his service and no enquiry was also conducted and even subsequent to his death, her husband is only a gangman. The applicant herein was never informed about the alleged theft. The notice is still pending. It is also stated in that notice dt. 12-5-97 that the letter of respondent No.3 bearing No. WEX/9/CC dt.22.8.96 was not sent to her.

3. This OA is filed to set aside the impugned order No.WPS/Engg/DNR/527/93 dt.22-4-97 (Annexure-II to OA) by holding it as illegal and for a consequential direction to the respondents to pay the applicant the gratuity amount of Rs.26,085 with interest @ 18% from 1-5-93 and also an amount of Rs.3,000/- as costs.

4. No employee can be held responsible for a theft and Recovery ordered from his pay unless a proper opportunity has been given to the employee in this connection and on the basis of that, case decided in regard to the recovery. In this case it appears that when late Uppada Akkayya was in service no enquiry was ordered in regard to the alleged case of theft attributable to the said late employee of the railways. Hence recovering that amount from the DCRG of the employee after his death may not be proper. However, it is not clear whether an enquiry was conducted when the employee was in service after giving him due opportunity, to come to the conclusion that the late employee was responsible for the theft.

5. In view of the above, I direct the Chief Personnel Officer of the South Eastern Railway, Garden Reach, Calcutta to examine this issue in detail and take a final decision in regard to the recovery of the said amount from the DCRG of the deceased employee and advise the applicant suitably within a period of 3 months from the date of receipt of a copy of this order.

6. OA is ordered accordingly at the admission stage itself. No costs.


(R.RANGARAJAN)
Member (A)

Dated: 23rd September, 1997.
Dictated in Open Court.

Copy to:

1. The Senior Divisional Personnel Officer,
South Eastern Railway, Visakhapatnam.
2. The Divisional Railway Manager, South Eastern Railway,
Visakhapatnam.
3. The Senior Divisional Engineer(Est.),
South Eastern Railway, Visakhapatnam.
4. One copy to Mr.P.Krishna Reddy, Advocate,CAT,Hyderabad.
5. One copy to Mr.C.V.Malla Reddy,Addl.CGSC,CAT,Hyderabad.
6. One copy to D.R(A),CAT,Hyderabad.
7. One duplicate copy.

YLKR

10
7
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :
M (J)

Dated: 23/9/97

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in
D.A.NO. 1242/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

