

3/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 1131/2000.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....O.A.....1131/2000.....Pg.....1.....to.....2.....
2. Judgment/Order dtd. 25/4/2000.....Pg.....No.....Report & Order disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....1131/2000.....Pg.....1.....to.....2.....
5. E.P/M.P.....N.I.L.....Pg.....to.....
6. R.A/C.P.....N.I.L.....Pg.....to.....
7. W.S.....N.I.L.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 113/2000

OF 199

Applicant(s) Smt. Darshi Rani Nath.

Respondent(s) Union of India and Ors.

Advocate for Applicant(s) Mr. R. Sharma

Advocate for Respondent(s)

Mr. T. L. SARKAR
Rly. Advocate.

Notes of the Registry	Date	Order of the Tribunal
Particulars of the case filed within time limit Part No. 494082 Date 26.3.2000	3.4.2000 pg	On the prayer of Mr R. Sharma, learned counsel for the applicant the case is adjourned to 10.4.2000 for consideration of admission.
Regd. No. 494082 Date 26.3.2000 Signature 31/3/2000	10.4.00	On the prayer of the learned counsel for the parties, the case is adjourned to 25.4.00 for consideration of admission.
	nkm	

Member

Member

DA 113/2K ✓

Notes of the Registry	Date	Order of the Tribunal
<p><u>S.5. 2000</u></p> <p>Copy of order has been sent to the D/As for issuing the same to the applicant or to the Rly. Advocate for the Respondents.</p> <p><u>H.S.</u></p> <p>Issued vide S. No. 1330 & 1331 dd S.5.2000</p> <p><u>H.S.</u></p>	25.4.00	<p>This application has been submitted by the applicant praying for a direction that she is entitled to equal share of death benefits and family pension of late Bablu Nath, a Railway employee with Respondent No.6, Smt Chandana Nath.</p> <p>After hearing the counsel for both sides, I dispose of this original application with a direction to the competent authority of the respondents to dispose of the representation dated 15.10.99 submitted by the applicant which is pending before them. The applicant may also furnish a fresh representation before the respondents giving further details as submitted by her before this Tribunal within one month from today. The respondents shall consider the representations of the applicant and issue a speaking order within two months from the date of receipt of the fresh representation. The applicant is at liberty to approach this Tribunal if she is still aggrieved with the order of the respondents.</p> <p>Application is disposed of. No order as to costs.</p> <p style="text-align: right;">(Signature) Member</p> <p style="text-align: center;">mk</p> <p style="text-align: right;">21.5 25/4/2000</p>

21 MAR 2001
26
Guwahati Bench

4
Srimati Lakhi Rani Nath
21
P.T.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI

Application under section 19
of the Administrative Tribunal
Act, 1985.

- B E T W E E N -

Srimati Lakhi Rani Nath ... Applicant.

- Versus -

Union of India & Others ... Respondents.

Sl.No.	Description	Page No.
1.	Application	1 to 11
2.	Verification	12
3.	Annexure-A	13
4.	Annexure-B	14
5.	Annexure-C	15
6.	Annexure-D	16-17
7.	Annexure-E	18-20.

For the in Tribunal's Office

Date of filing :-

Registration :- 113/2000

Signature :-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: :GUWAHATI BENCH.

GUWAHATI.

O.A. 113 OF 2000

IN THE MATTER OF:

An application under section 19 of
the Administrative Tribunal Act,
1985.

- And -

IN THE MATTER OF :

Srimati Lakhi Rani Nath,
w/o of Sri Prafulla Kumar Nath,
Resident of New Colony, Kalibari under
Post Office, Police Station and
District-Bongaigaon, Assam.

..... Applicant.

- Versus -

1. The Union of India,

Represented by the Secretary to
the Govt. of India,
Ministry of Railway,

New Delhi.

Contd...P/2

2. The General Manager,

North East Frontier Railway,
Maligaon, Guwahati.

3. The Divisional Railway Manager,

N.F.Railway, New Bongaigaon,
Assam.

4. The District Electrical Engineer (W),

N.F.Railway, New Bongaigaon,
District Bongaigaon, Assam.

5. Chief Electrical Engineer(WS),

N.F.Railway,
New Bongaigaon.

6. Smt. Chandana Nath,

W/o Late Bablu Nath,
Resident of Kalibari, New Colony,
P.O. & P.S. Bongaigaon,
District-Bongaigaon, Assam.

..... Respondents.

Details of Application:

(1) The particulars against which the application is made :-

The application is made for issuance of a mandamus/direction in respect of family pension and a death benefits for payment of 50% of family pension and

death benefits on expiry of Late Bablu Nath on 17.6.99 to the applicant, being the deceased is the son of the applicant.

(2) Jurisdiction of the Tribunal:

The applicant declares that the subject matter in this application is within the Jurisdiction of the Tribunal.

(3) Limitation:

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

(4) Facts of the case:

4.1 That the applicant is a citizen of India and is permanent resident of District Bongaigaon, Assam.

4.2 That Sri Prafulla Kumar Nath, the husband of the applicant was an employee as Wireman, Grade-II in Class-III under District Electrical Engineering, New Bongaigaon since the date of his appointment till he was declared medically unfit on 23.11.94. The applicant states that Sri Prafulla Kumar Nath was under medical treatment in 1985 and he had been under medical treatment till 1994 and the registered Doctor attending him declared on 23.11.94 as unfit for service and thereafter Sri Prafulla Kumar Nath was released from service.

4.3 That the applicant states that Sri Bablu Nath, the son of applicant had applied for a service on compassionate ground before the District Electrical Engineer, N.F.Railway, New Bongaigaon on compassionate ground and the respondent accordingly advised to attend on 8.11.96 for screening Test on compassionate appointment in Group 'D' post under memo No.E/M/223-Pt-IX dated 4.11.96.

A copy of office memo under reference dated 4.11.96 is annexed herewith and marked as Annexure-A.

4.4 That the applicant states that Sri Bablu Nath on being found suitable for compassionate appointment in Group 'D' post has advised to attend ^{the} office of Deputy Chief Mechanical Engineer, New Bongaigaon on or before 19.11.96 under memo issued on 18.11.96 by Deputy Chief Mechanical Engineer, New Bongaigaon.

A copy of office memo dated 18.11.96 issued by the Deputy Chief Mechanical Engineer, New Bongaigaon is annexed herewith and marked as Annexure-'B'.

4.5. That the applicant states that Sri Bablu Nath was discharging his duty to the best of his abilities and to the satisfaction of all concern from the date of his appointment on 19.11.96.

4.6 That the applicant states that Sri Bablu Nath expired on 17.6.99 due to certain disease leaving behind the following as heirs of Late Bablu Nath.

- i. Srimati Chandana Nath... wife
- ii. Miss Monalisha Nath ... Minor daughter 1 Yr.
- iii. Srimati Lakhi Rani Nath..Mother/Applicant.
- iv. Sri Prafulla Kumar Nath..Father.
- v. Sri Ganesh Nath .. Brother/Major.
- vi. Srimati Minu Nath .. Sister/Minor 17 Yrs.
unmarried.

A copy of death certificate is annexed herewith and marked as Annexure 'C' .

4.7 That the applicant states that Srimati Chandana Nath the Respondent No.6 has applied in service in any grade on compassionate ground on the death of Sri Bablu Nath and Srimati Chandana Nath was accordingly appointed on 21.9.99 in Group 'D' Service under Divisional Railway Manager, N.F.Railway, New Bongaigaon and she is discharging her services to the best of her abilities and to the satisfaction of all concern since 21.9.99.

4.8 That the applicant states that this application is filed for her ^{herself} behalf and on behalf of her minor daughter Miss Minu Nath, who is now 17 years old and is staying with the applicant and at present they do not have any source of income for their ^{living} maintenance and livelihood and on the other hand Srimati Chandana Nath is a Railway employee and she is living with her minor daughter has sufficient source of income. The applicant further states

that Miss Minu Nath is a minor and this applicant is the guardian of Miss Minu Nath being father of Miss Minu Nath is a ~~mentally~~ ^{mentally} ~~mentally~~ retarded person.

4.9 That the applicant state that she filed on 15.10.99 an appeal before the District Electrical Engineer (W), N.F.Railway, New Bongaigaon stating therein that Late Bablu Nath, the deceased was living jointly and the entire joint family were dependant on the income of Late Bablu Nath. The applicant further states that on appointment of Srimati Chandana Nath and joined thereafter on 21.9.99, Srimati Chandana Nath started living separately without looking after the joint family including the present applicant. That the applicant further submits that Srimati Chandana Nath has separated herself with her minor daughter from the joint family and living with her parents and due to such inhuman activities, the applicant and other depended members of Late Bablu Nath have been taken over into completely uncertain stage of life though the applicant is entitled to financial benefits including a portion of pension of Late Bablu Nath and thereby the Respondants may be directed to pay 50% share of death benefits including family pension to the applicant herself and her minor daughter Miss Minu Nath.

A copy of appeal dated 15-10-99 filed by the applicant is annexed herewith and marked as Annexure 'D'.

4.10 That the applicant states that a legal notice dated 1.11.99 was issued to the District Electrical Engineer (W), N.F.Railway, New Bongaigaon stating therein to make arrangement for payment of 50% of family pension gratuity, provident fund etc. in favour of the applicant due to her deceased son, Bablu Nath to save the sole dependents from financial hardships and no win situations.

A copy of legal notice issued on 1.11.99 is annexed herewith and marked as Annexre 'F'.

4.11 That the applicants state that the appeal filed on 15.10.99 and legal notice issued on 1.11.99 have not been disposed of till date and the respondents are silently sitting over the said appeal and notice without doing anything for grant of family pension and other service benefits in the name of the applicant.

4.12 That the applicant states that she approached several times in different occasions on 15-10-99 and thereafter before the respondents praying for grant of service benefits and pension in favour of applicant, and the respondents have not paid the same and the appeal filed on 15.10.99 by the applicant and legal notice issued on 1.11.99 by her learned counsel have not been disposed of till date. Family pension and death benefits have not been released till date.

12.13 That the applicant states that the death benefits and family pension of Late Bablu Nath may be divided in equal between the applicant and the Respondant No.6,

both the applicant and the Respondant have one minor daughter each for their maintenance and livelihood the Respondant No.6 being a Railway employee has sufficient source of income.

5. Grounds for relief with legal provision.

(i) For that the applicant is entitled to equal share of death benefits and family pension of Late Bablu Nath the deceased being Late Bablu Nath was the son of the applicant.

(ii) For that the service benefits of Late Bablu Nath is to be paid to the applicant as she does not have source of income and she is not looked after any her daughter-in-law Srimati Chandana Nath, the Respondant No.6 and the applicant is entitled for death benefits and family pension as per the Railway service (Pension) Rule 1993.

(iii) For that the respondents should should not pay the all death benefits and family pension to the Respondant No.6 being this applicant was fully dependant on Late Bablu Nath and the applicant does not ever have source of income.

(iv) For that the respondents should have considered favourably the appeal filed on 15.10.99 before the Respondants by this applicant.

(v) For that it is a fit case within the Jurisdiction of this Hon'ble Tribunal to interfere the matter for payment of death benefits and family pension of Late Bablu Nath, under the provision of the Railway Services (Pension) Rules, 1993.

(vi) For that the respondents could not cite any addition and just reason for their arbitrary action in denying the claim of the applicant.

(vii) For that the respondents have not considered the adverse effect of the applicant for non payment of death benefits and family pension to the applicant.

(viii) For that the Respondents should make equal share of death benefits and family pension under the Railway Service (Pension) Rules, 1993 between the applicant and the Respondant No.6.

6. Details of Remedies exhausted.

That the applicant states that she has no other alternative and other efficacious remedy than to file this application. Representation through proper channel were submitted by the applicant on 15.10.99 and 1.11.99 to the respondents and subsequently the applicant approached several times in different occasions for disposal of the appeal and legal notice and the same have not been disposed of till date.

7. Matters not previously filed or pending with.

The applicant states that ~~she~~ she has not filed any application previously before this Hon'ble Tribunal and in any other Hon'ble Court.

8. Relief sought:

In view of the facts and circumstances stated in paragraph 4 above, the applicant prays for the following relief :-

(i) A declaration that the applicant is entitled to equal share of death benefits and family pension of Late Bablu Nath was a Group 'D' employee of N.F.Railway.

(ii) A direction to the Respondants to extend the death benefit and family pension with equal proportion between the applicant and the Respondant No.6.

(iii) Cost of the applicant.

(iv) Any other relief or reliefs to which the applicant is entitled to as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed

Pending disposal of this application, on observation be made that no death benefits and family pension be granted to Srimati Chandana Nath, the respondent No.6 more so, in view of the Section 19(4) of the Administrative Tribunal Act. The applicant also prays that the instant application be disposed of expeditiously.

10. Particulars of the I.P.O.

(i) I.P.O. No. 06.494082.....

(ii) Date 24.3.2000.

(iii) Payable amount Rs. 5/-.....

11. List of Enclosurers:

(i) Index

(ii) Application

(iii) Annexure .. A, B, C & D. ~~and~~ E

(iv) Indian Postal Order.

(v) Vakalatnama.

- V E R I F I C A T I O N 4

I, Srimati Lakhi Rani Nath, aged about 50 yrs., wife of Sri Prafulla Kumar Nath, resident of New Colony, Kalibari under Post Office, Police Station and District Bongaigaon, Assam do hereby verify that the statement made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I am not suppressed any material fact.

And I sign this verification on this 24 day of March, 2000 at Guwahati.

RTI of Smt. Lakhi Rani Nath



Signature

12/12/96

N.E. Railway.

Office of the
Dy. Chief Mech. Engineer,
New Dengaigaon.

Dt/- 4-11-96.

No. R.D/223 Pt. IX

To
Sri Prabhu Nath
S/o Sri Gopalakar Nath By Woman Player
New Colony (Kalibari)
Post. & Dist. Borgaon
Pin- 783380 (Assam)

Re: - Screening Test for compassionate appointment in
Gr-'D' post in scale Rs.750-910/- (RP).

Date of screening test for your compassionate appointment in Gr-'D'
post in scale Rs.750-910/- (RP) is fixed on 8-11-96 at 10.00 hrs.
You are, therefore, advised to attend this office on the stipulated
date and time for the above test.

You should bring with you the following documents in original for
verification.

1. Death certificate/Medical unfit certificate of the
Ex. Employee.
2. Educational certificate
3. Age proof
4. Caste certificate
5. Affidavit.

for Dy. CME (C&W) / ND QS.

for 4/11/96

Affidavit
R. Samanta
21/11/2005

Subd

*be
13/11/96
S. F.*

N. E. Railway

14/11/96
 Obj. of the
 Dy. Chief Mech. Engineer,
 M. B. S. I. D. G. A. N. T.

To: Sri Madhukar
 S/o Sri Venkatesh K. M. A. N. T.
 QX 10/Man/3/EEE/M/9

Medical Examination for initial appointment in Gr. 'D'
 Post on compassionate ground

On being found suitable for compassionate appointment in Gr. 'D' posts
 in scale Rs. 750-910/- (RS), you are hereby advised to attend this office
 office on or before 19/11/96 for your medical examination for
 initial appointment in the Railway.

You should bring with you the following documents.

1. Death/Medically unfit certificate of the Ex. employee.
2. Educational & age proof certificate.
3. Cast certificate.
4. Two character certificates from the two responsible men
 (Gazetted Officer).

for Dy. CME (C&NT) NILG

18/11/96

Attested
 Dr. Samir D. D.
 24/3/2000

16
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ANNEXURE-'D'

To,

The Dist.Electrical Engineer (W),

N.F.Rly, New Bongaigaon.

Sub :- An earnest and pitously appeal for rendering financial assistance for the preservation of existence of my invalid husband,sons and daughters

Sir,

Respectfully, I the wife of a invalid Rly-men and unfortunate mother of a deceased railway employe bag to submit this appeal before your honour for the favour of sympathetic consideration and favourable action.

That Sir, my husband Shri Prafulla Kr. Nath was working under your kind control in T.L.Shop/NBQS/N.F. Rly. It was due to his mentally disbalance he was medically incapacitated and consequently my son Bablu Nath was appointed as Khalasi under Se.EF/P/NBQ/N.F.Rly. on 14-12-96 on compassionate ground. But it is a most misfortunate matter for me as well as his invalid father that my this serving and dependable son(Bablu Nath, deceased expired on 17.6.99.

It is stated that since the appointment of my deceased son(Bablu Nath) was living with us jointly with his wife Smt.Chandana Nath and my deceased son(Bablu Nath) was solely maintaining all the liabilities of our joint family.

Contd...P/2

A/cst -d
R. Sam Form
24/3/2003

It is stated that since the appointment of my deceased son (Bablu Nath) was living with us jointly with his wife Smt. Chandana Nath and my deceased son (Bablu Nath) was solely maintaining all the liabilities of our joint family.

Subsequently to the death of my son (Bablu Nath) his wife i.e. my daughter-in-law Smt. Chandana Nath has been favoured with the employment in group 'B' category on compassionate ground and joined in the service on 21.9.99 and working under your control in GER Shop/NBQ.

Now, I am sorry to state that suddenly and unexpected my daughter-in-law Mrs. Chandana Nath has separated herself from us and living with her parents. Due to such inhuman activities my daughter-in-law we have been thrown in completely uncertain state of life and all of our hopes of the existence have been destroyed as because all financial benefit of my deceased son Bablu Nath will be availed unilaterally by her though morally and humanly we the unfortunate mother and father of my deceased son has major rights or the matter of settlement dues and financial payment to be given by the railway authority due to the petitioner's deceased son (Bablu Nath).

In consideration of the above circumstances, I beg to pray that you will kindly consider my appeal for humanitarian ground and take some suitable measures by which we can be safe guarded from impending rain.

Yours faithfully,

Dated,
NBQ the 15th Oct' 99

R.T.I. of Smt. Lakshmi Nath
W/o Shri Prafulla Kr. Nath, Ex-W/man
(Medically invalid) working under SEE/
TL, She is mother of deceased son
Late Bablu Nath, Ex-W/man under
SSE/P/NBQ.

A H S A
P S A
24/3/2000

N
V

()

Annexure-E

Sri Dilip Kumar Das,
B.A.(Hons) M.A.LL.B.(Advocate)

Phone No. 20558

Residence-M.M.Singha Road
Barpeta,Bongaigaon
P.C.&Dist.Bongaigaon.

LEGAL NOTICE

To,

The District Electrical Engineer (W),
N.F.Railways,
P.C. New Bongaigaon,
Dist.Bongaigaon,Assam.

Dear Sir,

Under the instructions from my Client, Smt. Lakshmi Nath, wife of Sri Prafulla Kumar Nath, resident of Kalibari, New Colony, P.O. & P.S. Bongaigaon, Dist. Bongaigaon, Assam, I hereby give you this notice and state as follows : -

1. That, my client's son late Bablu Nath was appointed as an employee as Khalasi under SC. EF/P/NBQ/N.F.Rly. on 14.12.96 at New Bongaigaon on compassionate ground on account of retirement of my client's husband who was mentally imbalanced and incapacitated who worked at T.L.Shop/NBQ/N.F.Rly.
2. That, late Bablu Nath, on being appointed as Khalasi who used to look after and maintaining them, namely, his mother, unmarried sister, Smt. Minu Nath and his imbalanced and incapacitated father. Subsequently, after his appointment, Bablu Nath married Smt. Chandana Nath.
3. That, unfortunately my client's said son, Bablu Nath died on 17-6-99 due to his illness leaving my client and others as dependents and legal heirs.

contd... 2/-

Attested
R. Samir
2/13/2000

- 2 -

4. That, after the death of my client's son, Bablu Nath on 17.6.99 Smt. Chandana Nath, wife of late Bablu Nath and daughter-in-law was appointed as a compassionate ground on 21.9.99 in Group D category in CR Shop/NBQ.

5. That, after getting appointment by Smt. Chandana Nath, the daughter-in-law left and separated herself from her mother-in-law's house, father-in-law and unmarried daughter in a distressed conditions causing great financial hardships and starvation.

6. That, my client, Smt. Lakshmi Nath, mother-in-law and dependent and legal heir inclusive of his unmarried sister and mentally imbalanced and incapacitated father are legally entitled to the family pension, gratuity, P.F., G.I. Group Insurance, Bonus, arrears etc, due to his death.

7. That, on the death of her son, Bablu Nath, her daughter-in-law was appointed in the Group D category as compassionate ground so as to maintain the members dependents. But, unfortunately, the said daughter-in-law, Smt. Chandana Nath of my client left the house of my client and separated herself and started living with her father's house, leaving my client, mother-in-law, unmarried daughter and father-in-law in a distressed conditions and financial hardships having no independent source of income. As such, my client's daughter-in-law, Smt. Chandana Nath is not at all legally entitled to get any benefits of pension, gratuity, P.F. etc, due to my client's son, Bablu Nath.

con id....3/-

*A H C S
R. Chatterjee
Advocate
26/3/2020*

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- 3 -

Under the circumstances stated above, I hereby give you this notice to make arrangement for payment of family pension, gratuity, P.F. etc, in favour of my client, Smt.

Lakshmi Nath due to her deceased son, Bablu Nath to save the sole dependents from financial hardship and starvation and request you to expedite settlement of the matter as early as possible, failing which my client will be compelled to take legal action in the competent Court of law.

Thanking you,

Yours faithfully,

(Dilip Kumar Das),
Advocate.

ANUJ
P.C. Puri
20/3/2020.