

51/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

(1) M.P. 51/04 order Pg. 1 to 10  
19/12/04

(2) M.P. 62/03 order Pg. 1 to 2

O.A/T.A No. 268/02  
R.A/C.P No.  
E.P/M.A No. 62/03 & 5/04

1. Orders Sheet....., O.A..... Pg. 1..... to 4.....
2. Judgment/Order dtd. 13.1.8.2003 Pg. 1..... to 4..... 8/10.....
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 268/02 Pg. 1..... to 9.....
5. E.P/M.P. 5/04..... Pg. 1..... to 8.....  
MP 62/03 Pg. 1..... to 8.....
6. R.A/C.P..... Pg. .... to .....
7. W.S..... Pg. 1..... to 5.....
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.)

*Halilis*  
29/11/17

(SEE RULE 44,

**GENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:**

**ORDER SHEET**

Original Application No. 268/02

Miss Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s). Smt. Reomka Ray

-Vs-

Respondent(s) M. O. I. Jam

Advocate for the Applicant(s) Smt. Shukl Reka

Ms. P. D. D.

Advocate for the Respondent(s) Cafe

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

30.8.02 Heard learned counsel for the parties.  
Application is admitted. Call for records. Returnable by four weeks.  
List on 27.9.02 for orders.

*[Signature]*  
Vice-Chairman

27.9.02 On the prayer of Mr. S. Sarma learned counsel for the Respondents four weeks time is allowed for filing of written statement. List on 15.11.02 for orders.

*[Signature]*  
Member

Steps taken  
  
Notice prepared and Sent to D. Section for issuing of the Summons to the Respondent through Regd. post  
Vide D. No. 2512 to 2514  
Dtd. 10.9.02

1m

15.11. Due to court setting at Shillong, the case is adjourned to 29.11.2002.

*[Signature]*  
M. A. K.

(2)

O.A. 268 of 2002

No written statement  
has been filed.

3/11  
28.11.02

29.11.02

No written statement so far filed  
by the respondents. Further four weeks  
time is allowed to the respondents to  
file written statement.

List on 3.1.03 for orders.

Vice-Chairman

lm

3.1.2003. The valuation, the case will  
be informed to 24.1.2003.

mb

A.U.P.

No written statement  
has been filed.

24.1.2003. present : The Hon'ble Mr Justice D.N.  
Chowdhury, Vice-Chairman.

3/1  
23.1.03

Meard Ms T.Roy, learned counsel for  
the applicant and Mr A.Chakraborty, learned  
counsel appearing on behalf of the Railway  
standing counsel. This is a pensionary  
matter and the respondents are yet to  
submit written statement. On the prayer  
of Mr Chakraborty three weeks further time  
is allowed to submit written statement.

List on 14.2.03 for order.

Vice-Chairman

20/3/03  
written statement has  
not been submitted  
by the respondents.

W.S.  
20/3/03

14.2.2003

The matter relates to family  
pension and pensionary benefit to the  
applicant. The respondents are yet to file  
written statement though time granted. Put up  
the matter again on 21.3.2003 to resolve  
the matter finally.

Vice-Chairman

mb

21.3.2003

No written statement so far filed.  
The respondents are allowed time upto 25.4.  
2003 to file written statement, if any, as  
a last chance.

Vice-Chairman

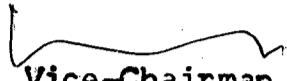
28/4/03

bb

24.4.03  
The W.S. informed that  
the respondents. DM

25.4.2003      Written statement filed. The case may now be listed for hearing on 18.5.2003. The applicant may file rejoinder, if any, within two weeks from today.

No rejoinder has been filed.

  
Vice-Chairman

bb

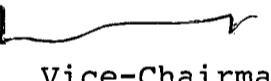
  
22.5.03

23.5.2003      On the prayer of Miss T.S. Das, learned counsel for the applicant, the case is adjourned. List again on 4.6.2003 for hearing.

  
Vice-Chairman

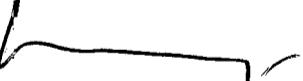
mb

4.6.2003      List this case on 11.7.2003 alongwith M.P.62/2003 for hearing.

  
Vice-Chairman

bb

11.7.2003      put up the matter again on 8.8.2003 for hearing. In the meantime Mr.S.Sarma, learned counsel for the respondents shall obtain fresh instruction on the matter. Mrs.S.Deka, learned counsel for the applicant also provided some particulars to Mr.S.Sarma in this regard.

  
Vice-Chairman

bb

8.8.2003      On the prayer of Miss U. Das, learned counsel on behalf of Mr. S. Sarma, learned counsel for the respondents the case is adjourned. Put up again on 13.8.2003 for hearing.

  
Vice-Chairman

mb

13.8.2003

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

12.9.03

Copy of the

Judglt has been  
sent to the Ofcc,  
for issuing the  
same to the applicant  
as well as to the  
Rly. Standing  
counsel.

nkm

Vice-Chairman

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

268 of 2002  
O.A./R.A. No. 1111

13.8.2003  
DATE OF DECISION

Smt Renuka Ray .....APPLICANT(S).

Mrs S. Deka and Ms T. Das .....ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS-

The Union of India and others .....RESPONDENT(S).

Mr. B.K. Sharma, Railway Counsel and  
Mr. S. Sarma, Advocate .....ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.268 of 2002

Date of decision: This the 13th day of August 2003

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

Smt Renuka Ray  
Wife of Late Dwijendra Ray  
Resident of Rukminigaon  
N.N. Baruah Path,  
Guwahati.

.....Applicant

By Advocates Mrs S. Deka and Ms T. Das

- versus -

1. The Union of India, through the  
General Manager,  
N.F. Railway,  
Maligaon, Guwahati.
2. The General Manager  
N.F. Railway,  
Maligaon, Guwahati.
3. The Chief Electrical Engineer  
N.F. Railway,  
Maligaon, Guwahati.
4. The Divisional Railway Manager,  
N.F. Railway,  
Lumding.

.....Respondents

By Advocates Mr B.K. Sharma, Railway Counsel  
and Mr S. Sarma.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The core issue relates to providing of retiral benefits to the applicant. The applicant claims to be the wife of Late Dwijendra Ray who died while he was in service as an Electric Fitter at New Guwahati, N.F. Railway. The applicant pleaded that after the death of her husband she left for her original residence with her two minor sons and therefore she could not pursue the matter

with right earnest. According to the applicant her husband was appointed as Khalasi (P) on 22.8.1947 under the AEE/ Maligaon vide order No.E/255/1/444 dated 5.2.1977. The applicant pleaded that she was a totally illiterate person and because of her ignorance she could not pursue the matter with right earnest. Finally, overcoming all difficulties she submitted a representation before the authority on 27.12.2001 for remedial measures. Failing to get appropriate remedy the applicant moved this Tribunal for redressel of her grievance.

2. The respondents raised the plea of limitation and contended that the applicant's husband retired long before the establishment of the Tribunal. Even otherwise the claim of the applicant is stale and time barred. During the course of hearing also the respondents pleaded that it is difficult to place the facts before the Tribunal for want of the records. Time was given to the respondents to get hold of the records.

3. Mr S. Sarma, learned counsel appearing on behalf of the Railway Standing Counsel, took enormous trouble to get the records, but expressed his inability to get the records.

4. I have heard Mrs S. Deka, learned counsel for the applicant and Mr S. Sarma, learned counsel for the respondents. The plea of limitation raised by Mr S. Sarma is no doubt a substantial question of law. Predictability and certainty is one of the facets of law. But then, here the matter pertains to pension and other retiral benefits of an employee. Retiral benefit is not a bounty provided by the employer. It is a vested right of the employee. Non payment of pension is a wrong, a wrong of continuing.....

continuing nature. In the circumstances the application cannot be dismissed on the score of limitation. However, on the basis of the scanty materials it is difficult to issue any direction on the respondents for giving the pensionary benefit to the applicant. The applicant referred to the provisional list of seniority of Khalasi (P) in the scale of pay of Rs.70-85/-(AS) as on 1.4.1965. The said provisional seniority list indicates that the applicant's husband, Late Dwijendra Ray was born on 28.7.1926. He was appointed as Khalasi (P) on 22.8.1947. The status of Late Ray was shown as a confirmed employee. The said communication at column 6 also indicates that the length of non-fortuitous adjusted service in the grade was computed as 17 years 7 months and 10 days against the name of Late Ray. If we go by that communication then the deceased husband of the applicant had rendered about twentysix years of service till 20.8.1972. But this is only a tentative finding. In my view the matter requires to be further probed which can only be done by the department and come to a definite finding on this.

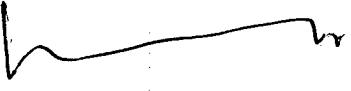
5. The learned counsel for the applicant also referred to the factum of the applicant handing over the Quarter in which the family of Late Ray including the applicant lived in New Guwahati in 1973.

6. Considering all aspects of the matter I am of the opinion that this is a case which requires consideration at the hand of the respondents who are the lawful authority to take care of the situation. The applicant is accordingly directed to submit a representation narrating all the facts before the Divisional Railway Manager, N.F. Railway, Lumding within two weeks from the date of

receipt.....

receipt of the order. If such representation is made the Divisional Railway Manager shall consider the same sympathetically and pass appropriate order as per law to provide the palliative to the applicant and her family. This direction is given on the peculiar facts of the case. It is also expected that the respondent No.4 on receipt of the said representation shall take its decision as early as possible, preferably within four months from the date of receipt of the representation.

With the above observation the application stands disposed of. No order as to costs.

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

21 AUG 2002

1972  
Guwahati

O.A. NO. 268

1/2002

I N D E X

<u>Sl. No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page</u>
1.	-	Application	1-5
2.	-	Verification	6
3.	A	Copy of the provisio- nal Seniority List.	7
4.	B	Copy of the represen- tation dated 27.12.01 .	8
5.	C	Copy of the particulars submitted on 16.2.02.	9

25  
16/3/02

Recd

1972  
in

41

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

O.A. NO. . . . . /2002

Filed by the Applicant  
through Tapasi Das  
Advocate

1. Smt. Renuka Ray

Wife of Late Dwijendra Ray

Resident - Rukminigaon

N.N. Baruah Path.

Guwahati - 22.

... Applicant.

-versus-

1. Union of India

(Through General Manager,

N.F. Railway, Maligaon.

Guwahati - 11)

2. General Manager

N.F. Railway,

Maligaon, Guwahati - 11

3. Chief Electrical Engineer

N.F. Railway, Maligaon, Guwahati.

4. Divisional Railway Manager,

N.F. Railway,

Lamding.

Pallikat

... Respondents.

Details of Application :

1. Particulars of the order against which the application made :-

This application is made for retire benefits on death of husband (PF, DCRG, Family pension/exgratia pension).

2. Jurisdiction :

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunals Acts, 1985, the prayer is for retiral benefits etc. including pension.

4. Facts of the Case :-

4.1. That the applicant is a citizen of India and as such is entitled to all such rights and privileges guaranteed by the Constitution of India.

4.2. That the applicant is the widow of Late Dwijendra Ray, who died while in service on 20.8. 1972. Her Late husband had been working as electric fitter at New Guwahati, N.F. Railway. After his death, the applicant went to her original residence at Dhubri with her two minor sons. Her husband was an confirmed employee in the N.F. Railway as per provisional Seniority List.

Copy of the provisional Seniority List is enclosed as Annexure -A.

4.3. That your applicant begs to state that her husband was appointed as Khalasi (P) on 22.8.1947 under AEE/Maligaon vide No. E/255/1/444 dated 5.2.77. He died on 20.8.72, suffering from cancer and leaving behind the applicant and two minor children.

4.4. That the applicant begs to state that she had not received any benefit from the N.F. Railway after the death of her husband. The applicant had to live with great hardship with her children in the remote village of Dhubri District. Now the applicant has heard that in cases the Railway authorities sent

welfare Inspectors after such deaths of employees. But the applicant did not get any such assistance.

4.5. That the applicant states that there is none in her family to look after and she has to maintain her family with acute financial crises. Nobody has advised her to claim family pension from the respondents or other retirement benefits. After coming to Guwahati, she has come to know that she would get family pension. Thereafter, she submitted a representation before the concerned authority with an affidavit to substantiate her claim for getting family pension.

Copy of the representation dated  
27.12.01 is enclosed as Annexure - B

4.6. That the applicant begs to state that the respondent No. 3 vide letter No. E/WB/HQ/pt. II dated 21-01-2002 informed the applicant to furnish the particulars for fixation of pension and payment thereof. Accordingly the applicant submitted the particulars to the respondents on 16.2.2002.

Copy of the particulars submitted on  
16.2.02 is enclosed as Annexure - C.

4.7. The applicant is illiterate and did not know anything about conditions of service of her late husband and had to suffer distress with two minor sons.

4.8. That the applicant has come to know that Railway authorities have made a scheme for payment of ex-gratia payment to old retired employees or their dependants like the applicant (Widow).

4.9. That this application has been made bonafide and for the cause of justice.

5. Ground for Relief (s) with Legal Provisions :

5.1. For that the applicant is entitled to family pension as her husband was a confirmed employee of the N.F. Railway.

5.2. For that the deceased employee rendered service in the N.F. Railway since 1947 till his death on 20.8.72. Therefore, he rendered more than 20 years of service.

5.3. For that it is the liability of the respondents to pay the family pension and other benefits as per Rules whenever becomes due ~~and payable~~ and payable.

5.4. For that the respondents had not informed anything regarding family pension or pensionary benefit to the claimant since 1972.

5.5. For that non-payment of family pension and pensionary benefit caused ~~undue~~ hardship to the applicant.

5.6. For that non-payment of pension and pensionary benefit is violative of Articles 14, 16 and 21 of the Constitution of India.

5.7. For that claim for family pension and pensionary benefits is a constitutional right of the applicant for the period of service rendered by her deceased husband in the N.F. Railway as a confirmed employee.

5.8. For that the applicant is entitled to P.F. Money of her deceased husband with D.C.R.G.

6. Details of Remedy Exhausted :

The applicant begs to state that there is no other remedy under any rule. However, the applicant submits representation which is not disposed of till date.

7. Matter not Pending before 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 the application has been made before any court

of law or any other authority or any Bench of the Tribunal and/or any such application, writ petition or suit pending before any of them.

8. Relief Sought For :-

Under the facts and circumstances of the case the applicant prays that Your Lordships would be pleased to ~~show~~ issue notice to the respondents to show cause as to why the relief sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records, and after hearing the parties on the cause that may be shown, be pleased to grant the following relief(s).

8.1. The family pension and pensionary benefit/ex-gratia pension, including any other reliefs shoyld be fixed as per Rules and make payment thereof.

8.2. Provident Fund money, DCRG money interest at the rate of 18% per annum on the amounts which has not been paid in time.

9. Interim Relief Prayed For :-

Nil

10. . . . .

This application has been filed through Advocate .

11. Particulars of Postal Order :

(i)	I.P.O. NO.	: 7G57 C664
(ii)	Date of Issue	: 13.8.02
(iii)	Issued from	: G.P.O. Guwahati
(iv)	Payable at	: G.P.O. Guwahati.

12. Particulars of Enclosures :

As stated in the Index.

VERIFICATION

I, Smt. Renuka Ray, wife of Late Dwijendra Ray, resident of Rukminigaon, N.N. Baruah Path, Guwahati - 22, aged about 62 years say that I am the applicant of the above case and put my thumb impression and accordingly I verify that the statement made in paragraphs 1, 4, 6 to 12 are true to my personal knowledge and those made in paragraphs 2, 3 and 5 are true to my legal advice and that I have not suppressed any material facts.

And, I, put my thumb impression in this verification on this the . . 16/8. day of August, 2002.



R.T. I. of  
Renuka Ray

Signature

Guwahati.

2002  
1972  
30

32

2002  
1972  
30

## Annexure - A.

NORTH EASTERN  
ELECTRICAL DEPARTMENT

Provisional seniority list of Khalasi(P) in scale 70-85/- (AS) as on 1-4-65

Sr. No.	Name	Date of Birth	Date of Appntt.	Conf. for offfg:	Length of non- fortuitous adjusted service in the grade Y - M - D	REMARKS.
1.	2.	3.	4.	5.	6.	7.
1.	Shri Chitta Rn. Chakraborty	2-1-24	9-8-43	Conf.	21-7-23	
2.	Purna Ch. Dey	14-2-17	23-4-44	Conf.	20-3-15 20-11-08	
3.	" Sudhir Ch. Baidya	10-6-25	17-6-44	"	20-8-21 20-9-15	
4.	" Banim Behari Kanjilal	3-3-25	28-6-44	"	20-7-03	
5.	" Jirmmadhury	8-12-08	11-7-44	"	20-8-21	
6.	" Appaya	8-12-11	17-7-44	"	20-8-15	
7.	" Sakhiram	5-3-22	16-8-44	"	20-7-16	
8.	" Gajinharan Das Chintaharan Das	1-11-20	1-11-44	"	20-5-0	
9.	" Kalachand Jubey	8-11-21	8-11-44	"	20-4-24	
10.	" Surendra Chakraborty	22-11-20	1-12-44	"	20-4-0	
11.	" Sudhunghshu Rn. Dutta	16-10-26	1-12-44	"	20-4-0	
12.	" Rajani Malfaker	31-12-16	31-12-44	"	20-3-1	
12.	" Abinash Ch. Dutta	1-1-19	16-2-45	"	20-1-16	
24.	" Matilal Mazumder	4-8-26	3-7-45	"	19-8-29	
25.	" Arjun Ch. Das	7-7-10	10-7-45	"	19-8-22	
16.	" Dharani Roy	18-12-27	18-12-46	"	18-3-14	
17.	" Swijendra Roy	28-7-26	22-8-47	"	17-7-10	
18.	" Basanta Kr. Dutta	21-6-25	9-12-46	"	17-3-23	
17.	" Upendra Ch. Das	1-3-21	2-3-48	"	17-0-23	
20.	" Jamshed Ali	15-4-28	28-4-48	"	16-11-4	
21.	" Marendra Nath Biswas	3-5-25	3-5-48	"	16-10-29	
22.	" Monaranjan Das	1-7-21	5-5-48	"	16-10-27	
23.	" Manik Lal Dey	16-4-27	7-5-48	"	16-10-25	
24.	" Haripada Talukder	16-3-23	26-6-48	"	16-8-7	
25.	" Ranigopal Sarker	1-8-24	1-8-48	"	16-8-0	
26.	" Ramaswar Das	7-5-11-20	15-11-48	"	16-6-17	
27.	" Lekhbir Das	15-11-26	24-11-48	"	16-6-17	

Attested  
V. Das  
Advocate

P.T.O.

To,

The Divisional Railway Manager,  
N.F. Railway, Lumding

Subject: Fixation of pension and payment thereof.  
Sir,

I beg to state that my husband late Dwijendra Ray who had been working as electric fitter at New Guwahati died of cancer on 20-8-1972 and since then my family pension has not yet been fixed and paid. I would like to state him that I am an illiterate woman having no knowledge of railway rules and regulation and I had to live with great hardship with my children in the remote village of Dhubri District. After coming to Guwahati I became aware of the fact that I should get family pension. Accordingly I made an Affidavit to substantiate my claim for getting family pension.

I, therefore, pray to you kindself to look into the matter and settle the case of my family pension at an early date.

Please acknowledge the receipt of this letter.  
Dated: 27-12-01.

Copy to:

1. General Manager (Welfare) / Maligaon
2. D.E.E/ Guwahati
3. A.P.O/ Guwahati
4. S.S.E./ New Guwahati,  
for information and necessary action  
please.

R  
kfb  
28/12/01

Yours Faithfully



(Smt Renuka Ray)  
C/o Dip Kumar Ray  
House of Haladhar Deka  
Rukmingaon, N.N. Baruah Path,  
Guwahati-22

Referred on 28/12/01  
by [unclear]

Attested  
S. D.  
Advocate

0/1

To,  
The Director, Paramount Services (U),  
H. E. Halliway,  
Maligaon.

- 9 -

Annexure-C

Date : 16-02-2002.

Sir,

Sub :- Fixation of Pension and payment thereof.

Ref :- Your letter No. E/WD/HQ/P1-II dated 09/21/2002.

With due respect I beg to state the following as desired Vide your letter quoted above for the Fixation of pension and payment thereof at an early date.

1. Name of the deceased employee :- Late Dwijendra Ray.
2. Date of birth :- 28-07-1926.
3. Date of appointment :- 22-08-1947 as Khalasi (P) under AEE/Maligaon. (This information is from the Seniority list issued by AEE/Maligaon vide No. E/ 255/1/444 dated 05-02-77).
4. Capacity in which he was working: Electric Fitter.
5. Under whom he was working :- Foreman /New Guwahati.
6. Pay and scale :- Not known.
7. Date of death :- 20-08-1972
8. Copy of death certificate :- Issued by Secretary, Pukhuripara Gram Sabha, Salkochha supported by Affidavit. (Copy enclosed).

Yours faithfully,

(Smt. Renuka Ray.)

C/O. Dip Kumar Ray.

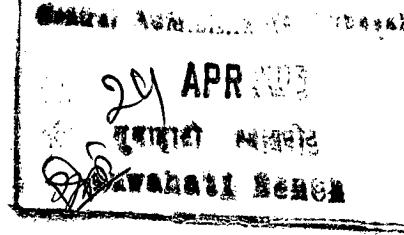
House of Haladhar Deka.

Rukminigaon, N.N. Baruah Path,  
Guwahati-781022.

D.A. :-

Copy of death certificate.

*Attested  
J. Das  
Advocate*



Filed by  
the Respondents Through

*A. Kishore*  
24/4/03

विद्युत कार्यालय अधिकारी  
S. Divi, Personal Officer  
जिल्ला लूंगा, लामागाड़ा  
N. P. R. I. Y. L. L. D.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

OA No. 268 /2002

Renuka Ray

Applicant

- VS -

Union of India & Ors.

Respondents

Written statement submitted by the Respondents

1. That the Respondents have received a copy of OA and have gone through the same. Save and except the statements which were specifically admitted herein below rests may be treated as total denial. The statements which are not borne on records are also denied and the Applicant is put to the strictest proof thereof.
2. That before dealing with the parawise reply the answering Respondents beg to raise the question of maintainability of the OA on the ground of delay. Taking into consideration the Section 21 (2) (a) of the Administrative Tribunal Act, 1985. The issue raised by the Applicant in this OA is pertaining to the period 1971-72 and at this distant date the relief sought for by the Applicant is not maintainable. On the other hand, Apart from that there is no attempt at the end of the Applicant to explain the delay nor there has been

- 2 -

any such application. It is therefore the Respondents pray that the OA may be dismissed on the ground of delay and laches.

3. That with regard to the statements made in paragraphs 1, 2 and 3 of the OA the answering Respondents while denying the contentions made therein beg to state that there is no cause of action for filing this application and this is hopelessly barred by limitation.

4. That with regard to the statements made in paragraphs 4.1 and 4.2 of the OA, the answering Respondents while denying the contentions made therein beg to state that there is no official record to show that the husband of the Applicant worked under NF Railway as Khalasi and the seniority list produced by the Applicant cannot be treated as an authentic one and hence same is denied.

5. That with regard to the statements made in paragraph 4.3 of the OA, the answering Respondents beg to state that the contentions regarding his appointment vide order dated 5.2.77 is denied. It is stated that the husband of the Applicant died on 22.8.72 and as such his appointment vide letter dated 5.2.77 is far from truth and are denied.

6. That with regard to the statements made in paragraphs 4.4, 4.5 and 4.6 of the OA, the answering Respondents while denying the contentions made therein

A. Kripal

वरिष्ठ कर्मिक अधिकारी  
Sr. Devl. Personnel Officer

राजस्थान, भारत  
N. P. Riyas La. dca

A. Kuppolu 23

S. Divi, Personnel Officer  
मुख्य अधिकारी, व्यवस्था  
N. E. Rly. Limited  
नेशनल एक्सप्रेस लिमिटेड

- 3 -

beg to state that on receipt of the representation dated 27.11.2001 the Respondents initiated enquiry into the matter and to verify the truth and to trace out the records but no such record was available. The Applicant was asked to furnish the informations and as per the information it could reveal that apart from date of birth and other irrelevant fact nothing could be ascertained as to whether he was actually employed under NF Railway and hence the question of payment of dues does not arise and as such OA deserves to be dismissed with cost.

7. That with regard to the statements made in paragraphs 4.7, 4.8 and 4.9 of the OA, the answering Respondents while reiterating and reaffirming the statement made above beg to state that the Applicant with an intention to get some undue advantage and benefit preferred this OA suppressing the material facts before this Hon'ble Tribunal. It is further stated that an enquiry was made and an Inspector was deputed to verify the truth but no such record was available and from the aforesaid fact it can sagely be concluded that the husband of the Applicant was not an employee of the Railways and as such the claim made in this application is not maintainable and liable to be dismissed with cost.

8. That with regard to the statements made in paragraph 5 (Grounds) the answering Respondents while denying the contentions made therein beg to state that the records do not reveal the fact that the Applicant's

(13)

24

A. Kishorita

Sr. Divl. Personnel Offices

प्र० स० र० न०, अमरावती  
N. F. Rlys, Law Officer

- 4 -

husband was ever employed by the Railways and as such there is no ground in support of her claim and as such present OA deserves to be dismissed with cost.

9. That with regard to the statements made in paragraphs 7 to 12 of the OA the answering Respondents while reiterating and reaffirming the statements made above beg to state that under the fact and circumstances of the case no relief can be granted to the present Applicant and the OA deserves to be dismissed with cost.

10. That the answering Respondents beg to state that the present OA is barred by limitation and hit by the principles of waiver, estoppel and acquiescences. The cause of action arise in this application during the period of 1971-72 and till 27.12.2001 she never made any application and as such her claim as made in this OA is hit by the principles of waiver and on this score alone no relief can be granted to the present Applicant.

Verification.....

(14)

25

- 5 -

## VERIFICATION

I, Shri Abraham Kisporta, son of Late Andruas Kisporta, aged about 52 years, resident of Lumding presently working as Senior Divisional personnel officer, NF Railway, Lumding, do here by solemnly affirm and state that the statement made in this application from paragraph 4 and 5 are true to my knowledge and those made in paragraphs 1 to 3 are matters records of and informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 20 th day of April, 2003.

A. Kisporta  
Deponent

वरिष्ठ कर्मिक अधिकारी  
S. Div. Personnel Officer  
प.रा. रेलवे, लामडिङा  
N. F. Rly., Lumding

Original Service  
Copy 2 Sent to Drs  
Memorandum Copy 2 Drs