

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 116/2002.....

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SECTION OFFICER (Judl.)

FORM NO. 4  
(See Rule 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI.

ORDER SHEET

Original No. 116/2002  
Misc. Petition No. /  
Contempt Petition No. /  
Review Application No. /

Applicant(s) Citibela Barconam & another

Respondent(s) U.O.I. Joms

Advocate for Applicant(s) D.C. Kath Hazarika, A. Verma  
Mis M. Das, R. Das

Advocate for Respondent(s) Railway Counsel

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
This is an application in form C. of Rs. 50/- deposited Dated 25.6.2001 N.B. in similar 11.4.02	11.4.02	Heard Mr. D.C. Kath Hazarika learned counsel for the applicants. The application is admitted. Call for the records. List on 10.5.2002 for further orders.
Steps taken by alr	10.5.02	Four weeks further time is allowed to the Respondents to file written statement. List on 10/6/2002 for orders. Pendency of this application shall not preclude the Respondents to consider the case of the Applicant.
DINo 1191 to 94 Dtd 28/4/02	17/4/02	10.5.02 Member mb
		Vice-Chairman

⑦ Service report are  
still awaited.

3/3  
9.5.02

No written statement  
has been filed.

3/3  
7.6.02

No written statement  
has been filed.

3/3  
9.7.02

No WTS has been  
filed.

3/3  
8.8.02

No WTS has been filed.

3/3  
7.10.02

mb

10.6.02 List on 10.7.2002 to enable the  
Respondents to file written statement.

I C Usha  
Member

Vice-Chairman

mb

10.7.02 List again on 9.8.2002 to enable  
the respondents to file written state-  
ment.

I C Usha  
Member

Vice-Chairman

mb

9.8.02 List on 10.9.02 to enable the res-  
pondents to file written statement on  
the prayer of Mr S. Sengupta, learned  
Railway standing counsel.

I C Usha  
Member

Vice-Chairman

pg

10.9.02 List again on 8.10.2002 for  
orders.

I C Usha  
Member

Vice-Chairman

mb

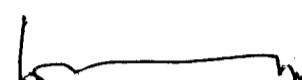
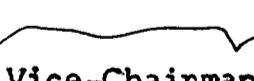
8.10.02 List again on 18.11.2002 on the  
prayer of Mr. S. Sengupta, learned counsel  
for the Railway for filing written state-  
ment by the respondents.

I C Usha  
Member

Vice-Chairman

mb

Notes of the Registry	Date	Order of the Tribunal
	18.11.02	<p>The respondents are yet to file written statement. Further four weeks time is allowed to the respondents to file written statement as a last chance. List on 17.12.2002 for orders.</p> <p><i>K. Ullah</i> Member</p>
No: Written statement has been filed.	17.12.02	<p>List on 24.1.2003 to enable Mr. S. Sarma, learned counsel for the respondents to obtain necessary instructions on the matter.</p> <p><i>Vice-Chairman</i></p>
<i>Zy</i> 23.1.03	24.1.03	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>The respondents are yet to file written statement. As a last chance further four weeks time is allowed to the respondents to file written statement. List on 17.2.2003 for written statement.</p> <p><i>Sun</i> Member</p>
<i>FB</i> 14/2/03	17.2.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Administrative Member.</p> <p>The respondents are yet to file written statement though time granted. On the prayer of Mr. S. Sengupta, learned counsel for the respondents further four weeks time is allowed to file written statement as a last chance. List on 11.3.2003 for written statement and further orders.</p> <p><i>S. Biswas</i></p>
No: Written statement has been filed		<p>Member</p>
<i>Zy</i> 10.3.03		<p>Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
Written Statement filed by the respondents	11.3.2003  <i>25.4.03</i>	Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of Mr. S. Sengupta, learned Standing counsel for the Railways who is said to be on bereavement, stated that written statement is going to be filed by the respondents within a short time and in that view of the matter, the case may be posted for hearing on 28.4.2003. In the meantime, the parties may exchange the pleadings.
	bb	 Vice-Chairman
	28.4.2003	Heard Mr. D.C. Kathi Hazarika, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents. Let the matter be listed for hearing before the Single Bench on 18.5.2003.
	mb	 Vice-Chairman
	23.5.2003	Mr. B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of Mr. S. Sengupta, learned counsel for the respondents prays for adjournment. Prayer is allowed. List again on 2.6.2003 for hearing.
	mb	 Vice-Chairman
<i>6. C. 203</i>  Copy of the Judgment has been sent to the D.P.C. for ready the same to the applicant as well as to the party counsel.	2.6.2003  bb	Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No costs.
		 Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / XXX. No. 116 of 2002~~xx~~

DATE OF DECISION 26.6.2003.....  
LAW & ORDER

... . . . . Smti. Giri Bala Barman & another. . . . . APPLICANT(S).

... . . . . Dr. D.C. Kath Hazarika, Mr. A. Verma, Mr. R. Das & Advocate for the  
... . . . . M. M. Das. APPLICANT(S).

- VERSUS -

... . . . . Union of India & Others. . . . . RESPONDENT(S).

... . . . . Mr. S. Sengupta, Railway Standing Counsel. . . . . 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 Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 116 of 2002.

Date of Order : This the 2nd Day of June, 2003.

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

1. Smti. Giri Bala Barman  
W/o Late Mon Mohan Barman  
Village:- Nayta Mara  
P.O:- Tilakgaon  
P.S.: Bongaigaon  
District:- Bongaigaon (Assam).
2. Shri Bhabesh Barman  
S/o Late Mon Mohan Barman  
Village:- Naytamara  
P.O:- Tilakgaon  
P.S:- Bongaigaon  
District:- Bongaigaon (Assam). . . . Applicants

By Advocates Mr.D.C.Kath Hazarika, Mr.A.Verma, Mr.R.Das & Ms. M.Das.

- Versus -

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Railway  
New Delhi.
2. The General Manager  
N.F.Railway  
Maligaon, Guwahati-11  
Assam.
3. The District Electrical Engineer (W)  
N.F.Railway, New Bongaigaon  
Assam.
4. The Chief Personnel Officer  
N.F.Railway, Maligaon, Guwahati-11  
Assam. . . . Respondents.

By Mr.S.Sengupta, Railway Standing Counsel.

O R D E R

CHOWDHURY J.(V.C.):

The issue pertains to compassionate appointment in the following circumstances:

1. Late Mon Mohan Barman was working for gain as Khalasi under the respondents. He expired on 8.1.1973 at Bongaigaon while he was working as such leaving his wife Smti. Giri Bala Barman i.e. applicant No.1. The applicant No.2 is a posthumous son of Late Mon Mohan Barman. The family was provided with a pension of Rs.60/- p.m. w.e.f.8.1.1973. According to the

applicant No.1, she moved the authority for compassionate appointment, but the authority did not act on it in time. The applicant also referred to one of the communication dated 9.6.1989 issued by the Railway authority expressing its inability to consider her case for appointment on compassionate ground on the ground of limitation. The applicant No.1 thereafter also pursued the subject for her appointment or appointment for her son. Failing to get appropriate remedy from the Railway authority, the applicants now moved this application for a direction on the respondents for compassionate appointment.

2. The Railway authority in the written statement did not dispute the fact that the husband of the applicant No.1 died in harness but at the same time it expressed its inability to consider her case at a belated stage. It seems that the applicant No.1 moved the authority from time to time. The Mazdoor Union also one point of time took steps for compassionate appointment of the applicant No.1 vide communication dated 11.4.1988. By communication No.EL/E/257/Q/1/ dated 9.1991 the District Electrical Engineer(W), N.F.Railway/New Bongaigaon also forwarded her appeal to the authority, where he mentioned about illiteracy and ignorance of the applicant. The officer also prayed for sympathetic consideration of the case of the applicant because of her destitute condition and financial strain.

3. I have heard Mr.D.C.Kath Hazarika, learned counsel for the applicant and also Mr.S.Sengupta, learned Railway Standing counsel for the respondents. I have also perused the policy decisions referred to by Mr.S.Sengupta. Guidelines, no doubt, indicated as to the time limit of five years from the date of occurrence. Guidelines guide and principles binds. The same guidelines also indicated that 5 years period is not absolute. Power is given to the competent authority to relax the same in a fitting case subject to the approval of the Ministry.

4. Considering the facts situation of the case I am of the opinion that ends of justice will be met, if a direction is issued to the applicant to make appropriate application before the General Manager (P), N.F.Railway, Maligaon, Guwahati-11. Accordingly, applicant No.1 is directed to submit a fresh application before the aforesaid authority narrating all the facts and circumstances for compassionate appointment to provide relief to the destitute family within one month from the receipt of the order. If such application is made, the respondent authority shall consider the case of either of them for compassionate appointment with empathy keeping in mind the hardship of the family as well as the spirit of the guidelines in the facts and circumstances of the case and pass appropriate order as per law. It is expected that the respondent authority shall act with utmost promptitude and take appropriate steps for compassionate appointment of either of the applicants within a period of six months from the date of receipt of the representation.

Subject to the observations made above, the application stands disposed of.

There shall, however, be no order as to costs.



( D.N. CHOWDHURY )  
VICE CHAIRMAN

bb

8.01.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI:BENCH.

(An application under Section 19 of the Central Administrative Tribunal Act, 1985)

Title of the case : O.A.No.

116 /2002

Smti. Giribala Barman & another ... Applicants.

-Versus-

The Union of India & others ... Respondents.

I N D E X

<u>Sl. No.</u>	<u>Annexures</u>	<u>Particulars</u>	<u>Page</u>
1.	A	A copy of the death certificate of late Mon Mohan Barman, died on 08.1.1973.	15
2.	B <sup>1</sup> & B <sup>2</sup> & B <sup>3</sup>	A copy of the orders dtd. 21.3.75 issued by F.A & Chief <del>Engin</del> Accounts Officer, N.F.Riy., Maligaon, Guwahati.	16 to 17, 18, 19 to 20 & 21
3.	C	A copy of the order dtd. 9.4.75 issued by Accounts Officer.	22 to 23
4.	D, E & F	A copy of the representation dtd. 2.9.1985, 31.3.1987 and the letter dtd. May, 1994.	24, 25 to 26 & 26-A
5.	G, H & I	A copy of the forwarding letter dtd. 8.4.87, 11.4.88 and impugned order dtd. 9.6.89.	27, 28, 29
6.	J	A copy of the forwarding letter dtd. 9.91, passed by the Respondent No.3.	30
7.	K	A copy of the school certificate bearing Sl.No.2085 dtd. 10.8.2000.	31

Filed by -

Monshurul Haq

Advocate

8.4.2002

Bhabesh Barman

filed by Bhabesh  
Barman  
Muneheri Deo  
Advocate  
8.4.2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:::

GUWAHATI BENCH

O.A. No. 116 /2001.

- BETWEEN -

1. Smti. Giri Bala Barman

S/o Late Mon Mohan Barman

Village - Nayta Mara

P.O. Tilakgaon

P.S. Bongaigaon

District - Bongaigaon (Assam).

2. Shri Bhabesh Barman

S/o Late Mon Mohan Barman

Village - Naytamara,

P.O. Tilakgaon

P.S. Bongaigaon

District - Bongaigaon (Assam)

...

Applicant.

-AND-

1. The Union of India

represented by the Secretary to the

Government of India, Ministry of Railway,

New Delhi.

2. The General Manager

N.F.Railway,

Maligaon, Guwahati-11,

Assam.

Contd.....2

Bhabesh Barman

3. The District Electrical Engineer(W),

N.F.Railway, New Bongaigaon,

Assam.

4. The Chief Personal Officer,

N.F.Railway, Maligaon, Guwahati-11,

Assam.

...

Respondents.

1. The particulars of the order against which this application is made :-

The application is made against the following order :-

The Chief Personal Officer, N.F.Railway, Maligaon, Guwahati i.e. Respondent No.4, passed the order vide No.586E/BI/I<sup>W</sup>(<sup>Q</sup>)MU Pt.I/1064 Dtd. 9.6.89 in Reference to the letters issued by the Respondent No.3, vide letter No.EL/E/257/Q/1/1427 dt. 29.7.88 & EL/E/257/Q/1/620 dt. 11/12.5.89 whereby the respondent No.4 had rejected the prayer made in the - representation <sup>5.4.4.202</sup> Dtd. 2.9.85 and Dtd. 31.3.87<sup>1</sup> by the Applicant No.1 for her appointment on compassionate ground due to death of her husband while her husband Late Monomohan Barman (Khalasi) was in service under the respondent No.3 only on the ground that her case was time-barred (Annexure-I).

2. Jurisdiction of the Tribunal :-

The applicants declare that the subject matter of the order against which they want redressal

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*Bhebesh Barman*

is within the jurisdiction of the Tribunal.

3. Limitation :-

The applicants declare that the subject matter of the order against which they want redressal is within the limitation prescribed by the Central Administrative Tribunal Act, 1985.

4. Facts of the case :-

~~XXX~~

4.1. That the applicants are the citizen of India and a permanent resident of Assam and as such entitled to all the privileges and safeguards under the constitution of India.

4.2. That the husband of the applicant No.1 and the father of the applicant No.2, Late Monmohan Barman was a Khalasi, rendered his service under respondent No.3 who died on 08.01.1973 at Bongaigaon while he was in service. Their said husband/father had a clear records of faithful service, offered to the nation in the establishment of the respondents.

Copy of the death certificate of Late Monmohan Barman is annexed herewith and marked as Annexure-A.

4.3. That the applicants beg to state that after the death of their husband/father Late Monmohan Barman

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*Bheebel Barman*

(Ex.Khalasi), the respondents had sanctioned family pension of Rs.60/- only a month to the applicant No.1 with effect from 8.1.73 vide order No.Pen/Elec/80 Dtd.21.3.75 issued by the F.A. & Chief Accounts Officer, N.F.Railway, Maligaon,Guwahati for which necessary arrangement had been made by the Accounts Officer,Assam vide order No.D/Pen/4474 Dated 09.04.1975 and issued P.P.O. Be it stated here that, the respondents had granted Family Pension to the applicant No.1 after lapse of two years i.e. from the date of death of the husband of the said applicant. The humble applicant No.1 for the first time disclosed and made a request the respondents to save the bereaved family from starvation on 1.9.73.

Copy of the orders dtd. 7.11.73, dtd.21.3.75  
Dtd.1.9.73 and dtd. 9.4.75 are annexed herewith  
and marked as Annexure-B,B<sup>1</sup>,B<sup>2</sup>,B<sup>3</sup> and C.

4.4. That after the tragic death of Late Monmohan Barman (Ex-khalasi), the welfare officer of the N.F. Railway, New Bongaigaon had taken active part and adopted remedial measures by guiding the illiterate poor lady like your applicant but the welfare officer did not advice the applicant No.1 to submit a representation in a particular format before the respondents for her appointment on compensationate ground. The applicant No.1, who read upto Class VI, failed to submit her application for appointment on compensationate ground due to her illiteracy and ignorancy in time. But when it was come to her knowledge about such Scheme she preffered the application dtd. 22 2.9.1985 and 31.3.1987 for the said relief. Moreover, the respondents

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Bhesel Berman

who should also duty bound to offer appointment immediately in pursuance of such welfare scheme had deliberately and wilfully misquided the applicant for which she failed to do so in time. Such refusal is not only a refusal of social and economic justice but also disregarded of such existing welfare scheme, lunched for distress family. It may further be stated here that the applicant No.1 also moved an appeal petition before the Deputy Minister, for Health & Family Welfare, Government of India, New Delhi-110011, the then the said Hon'ble Minister wrote a letter to Union Minister for Railway, Government of India, Rail Bhawan, New Delhi on May, 1994 vide D.O.No.2221 DM/H&FW/VIP/94. But no action has been taken up by the Railway Authorities for her appointment on compassionate ground. In this context your humble applicant submitted her last representations on 2.2.2002 but till date no fruitful result come up w.e.f. her/her son appointment on compassionate ground.

The copy of the representations dtd.2.9.1985 31.3.87 and the letter dtd. May, 1994 and representation dtd.2.2.2002 are annexed herewith and marked as Annexure-D.E.&F.F1.

4.5 That the applicant dated 31.3.1987 had been submitted by the applicant No.1 before the Respondent No.2 through Respondent No.3 which had been forwarded for consideration of the prayer made by the applicant No.1 in her said representation vide office No.EL/E/227/Q/1-630 dated 8.4.87

Similarly the general Secretary, N.F. Railay Mazdoor Union, Pandu, Guwahati had made a representation dated -

contd..

Bhesh Basner

dtd. 11.4.88 before the Respondent No. 2 for grant of relief in favour of the applicant No. 1 in pursuance of the reference letters issued by the Respondent No. 3 vide No. EL/E/227/Q/1/7883 dtd. 13.9.85 following by reminder vide No. EL/E/227/Q/1-630 dtd. 8.4.87, but the Respondent No. 2 did not pay any heed on such applications for giving appointment on compassionate ground to the poor widow, illiterate and innocent lady.

Ultimately the Respondent No. 4 vide order No. 586/E/81/1 (W) MU Pt. 1/1064 dtd. 9.6.89 had rejected the prayer of the applicant No. 1 on ground of time factor in reference to the letter NO. EL/E/257/Q/1/1427 dtd. 29.7.88 & EL/E/257/Q/1/620 dtd. 11.12.89 issued by Respondent No. 3.

A copy of the forwarding letter dtd. 8.4.87, 11.4.88 and impugned order dtd. 9.6.89 are annexed herewith and marked as  
Annexure - G, H & I.

4.6. That the applicant begs to state that the Respondent No. 3 after rejection of the prayer of the applicant No. 1, again forwarded an appeal petition for reconsideration of the case of the applicant on social and economic ground vide office No. EL/E/257/Q/1/ dtd. 9.1991, but the Respondent No. 2 remained silent for passing of any order in favour of the

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Bhabesh Berman

applicant No.1 on the ground of social and economic justice without any earthly reason.

A copy of the forwarding letter dated 9.1991 is annexed herewith and marked as Annexure-J.

4.7. That the applicant No.1 begs to state that the applicant No.1 is now 45 years old and her only son Sri Bhabesh Chandra Barman i.e. applicant No.2 is now 27 years old as per his school certificate dtd. 10.8.2000 and who is an educated unemployed youth. So, from the above point of view the applicant No.2 who is now leaving with his mother i.e. the applicant No.1, has been suffering lot due pre-matured death of his father and also not offering service to his mother by the Railway authorities immediately after the death of his father in pursuance of existing welfare scheme with the Respondents. Hence, for the above reason the Railway authorities may now, after service in favour of the ~~applicant No.2~~ applicant No.2.

A copy of the school certificate bearing Sl. No. 2085 dtd. 10/8/2000 is annexed herewith and marked as Annexure-K.

#### G R O U N D S

(a) The impugned order dtd. 9.6.89 had been made by the Respondent No.4 is *ex-facie* illegal in

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*Bhabesh Barman*

as much as the same is passed without considering the action of the welfare officer so entrusted for giving suggestions, advise, instruction in regarded to the welfare of the distrace family.

(b) The impugned order dtd. 9.6.89 had been passed by the Respondent No.4 against the applicant No.1 which had violated the object and policy of welfare scheme so lunched by the Railway authority in regarded to appointment on compensationate ground.

(c) The impugned order is bad in law because the Respondent No.4 had denied social and economic justice in favour of the applicants which is the norm for administration of justice. The applicant No.1 was not aware of such welfare Scheme when her husband died in course of employment and the respondent did not educated about the availability of such scheme with them neither directly nor through its welfare office. Hence, when she came to know about such scheme in her personal capacity she applied and approached before the competent authority. Besides, this, when her husband died your Applicant No.1 was pregnant and gave birth of one male child after the death of her said husband who is Applicant No.2 of this application.

(d) The applicant No.1 read upto Class VI. After the prematurated death of her husband Late Monmohan Barman while in Railway Service i.e. on

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*Brabesh Berman*

8.1.1993 the applicant No.1 was pregnant and gave birth a male baby for which due to her illiteracy and ignorance as well as compelling circumstances had forbidden her to move a representation for appointment on compassionate ground. Apart from this the welfare officer failed to make proper guidance for grant of aforesaid relief as the applicant disclosed her hardships for the first time on 1.9.1973 (Annexure-B<sup>3</sup>).

(e) The impugned order dtd. 9.6.98 had been passed against the applicant without application of mind and which contravened the mandatory provision of the constitution of India.

(f) The said order is apparently illegal, founded on malafide and colourable exercise of power as because no opportunity was granted to defend the applicant on the ground of limitation for showing sufficient causes. Hence, the impugned order dtd. 9.6.89 had been passed without due diligence and care and in violation of principle of natural justice.

(g) The applicant made an appeal petition before the Respondent No.1 after rejecting her prayer by the Respondent No.4 vide Order No.586E/81/1/(W)MU Pt.I/1064 dtd. 9.6.89. Which was duly forwarded by the Deputy Minister for Health & Family Welfare, Govt. of India, New Delhi-11 on May, 1994 to the Union Minister for Railways Government of India Rail Bhavan, New Delhi,

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Bleebell Berner

but her said application has not been considered by the Railway authorities without any earthly reason till this date and this action of the Respondents is denied denial of the privilages and protection granted by the Constitution of India. Hence it is not disputed that the Railway authority gave up their liabilities for taking welfare measures in favour of the applicants after lossing of their bread winner.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that malafide, discrimination, harassment being the foundation of the impugned order No.586E/81/1(W)MU Pt.1/1064 dated 9.6.89 passed by the respondent No.4 is not maintainable in the ~~xe~~ eye of law because there is a denial of social and economic justice as enshrined in the constitution of India and such right cannot be taken away indirectly. Hence, impugned order is liable to be set aside and quashed.

5.2. For that the said impugned order against the applicant is not only illegal, arbitrary but also a gross violation of the principles of natural justice and administrative fair play because neither the respondent nor the welfare officer had given any advice or suggestion about the existence of welfare scheme so launched for providing compassionate employmenent to one dependent of an employee dying in harness and hence impugned order is liable to be set aside and quashed.

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*Babesh Basner*

5.3. For that it is submitted that the said impugned order dated 9.6.89 was passed by the respondent No.4, whimsically, arbitrarily, unilaterally and in gross violation of the provision of Articles 14 and 16 and hence liable to be quashed and set aside.

5.4. For that after passing of the said impugned order the innocent, illiterate and poor widow lady i.e. applicant No.1 again made a representation through the Hon'ble Deputy Minister For Health & Family Welfare, Government of India, New Delhi - 110011 who also recommended and forwarded vide letter D.O.No. 222/DM(H & F.W/VIP/94 dated May, 1994 to the Hon'ble Union Minister for Railways, Government of India, Rail Bhavan, New Delhi. Which is still pending without any order and this action has infringed the constitutional right of the applicant. So denial of constitutional right is a denial of justice and hence impugned order is liable to be set aside and quashed. and also, further direction is necessary for implementation of welfare scheme in favour of the either to applicant No.1 or the applicant No.2 i.e. only son of the deceased person. As because the requirement of compassionate appointment cannot possibly be given a go-by.

6. DETAILS OF REMEDIES EXHUSTED :

The applicants declare that she has exhausted the departmental remedies by filing representations and

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Babesha Basu

there is no other alternative remedy open to them except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :-

The applicants further declare that she has not previously filed any application, writ petition or suit regarding the grievances in respect of which this application is made before any court or any other Bench of this Hon'ble Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :-

In view of the facts mentioned in paragraph 4 above, the applicants pray for the following reliefs :-

Instant application may please be admitted, records, be called for and on perusal of the same and hearing the parties on the cause or causes, that may be shown may be pleased to grant the following reliefs :-

(i) to set-aside and quashed the impugned order vide order No.586 E/81/1 (W)MU Pt.I/1064 dated 9.6.89, passed by the respondent No.4.

(ii) direct the respondents for providing compassionate appointment to one dependant

Contd.....13

Bhabesh Basner

of the employee dying in harness under the obligation to act in terms of the avowed objective of social and economic justice as enshrined in the constitution of India. Which had been denied due to the inaction of the welfare officer as entrusted to provide proper guidance in regard to ~~walk~~ welfare scheme so launched for distress family.

(iii) Cost of this application.

(iv) any other relief or reliefs to which the applicants are entitled to and as the Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :-

Pending disposal of this application the applicants pray that necessary direction may be made to the respondents for providing compassionate appointment to one dependant of the employee dying in harness in pursuance of the forwarding and recommendation of the Hon'ble Welfare Minister For Health & Family Welfare Government of India, New Delhi - 110011, vide official letter No.D.O.No.222/DM(H.n.F.W)/VIP/94 dated May, 1994 to act in terms of the avowed objective of social and economic justice as enshrined in the constitution of India.

Contd....14

*Abekell Basma*

**10. PARTICULARS OF THE I.P.O.**

(i) No. of the I.P.O. 5G 425780

(ii) Dated 25.6.2001

(iii) Payable at G.P.O. Guwahati.

**11. LIST OF ENCLOSURES :-**

As stated in the index.

**VERIFICATION**

I, Shri Bhabesh Barman, son of Late Mon  
Mohan Barman, aged about 28 years, resident of village  
Naytamara, P.O. Tilokyaon, P.S. Bongaigaon in the  
District of Bongaigaon, (Assam) do hereby solemnly  
verify that the statements made in paragraphs 1 to 11  
are true to my knowledge and I have not suppressed any  
material facts.

Place :- Guwahati

Date :- 8.4.2002

Bhabesh Barman  
Signature

Government of Assam,  
Public Health Department

Death Certificate

This is to certify that the following particulars are collected from original record of registration of Sidli Primary Health Centre, Mouza - Block/ Municipality - Sidli, district - Bongaigaon in the State of Assam.

Name - Late Manmohan Barman.

Male/Female - Male.

Date of death - 08-01-73.

Caste - Indian.

Place of death -

Permanent address Laytamara

Father/Mother/  
husband's name - Late Matilal

Registration No.115

Barman.

Date of Registration: 08.09.99

Permanent address  
of residence :- Vill - Laytamara

P.O. - Tilokgaon

District - Bongaigaon.

Signature of ..... authority

Sd/- Illegible

Designation -

Signature of Chief Engi-  
neer.

Date -

N.B. :- In case of death, any description regarding registered cause of death will not be disclosed.

Attested  
Certified to be true copy  
R.D.S.  
Advocate  
8.11.2002

ANNEXURE -

NORTHEAST FRONTIER RAILWAY

NO. PF/FS/EN/73/Ele. (W) Dated Pandu, the 7.11.73

To,  
The DEE/WNBQ  
Northeast Frontier Railway

Sub:- Final Settlements with Late Monmohan Barman Ex Kh.

Ref :- Your No. E/PC/MM Barman/FS/U111 of 18/9

1. Please note that the S.R.P.F. Contributory/Non-Contributory Account of the above named has been closed and balance with interest amounts to Rs. ... Nil.

2. Please note that the Special Contribution to Provident Fund of the above named amounts to Rs. ... Nil

3. Please note that 90%/50% of the S.R.P.F. assets of the above named with interest amounts to Rs. ...

4. From the above mentioned amount Rs ... Nil withheld for .... Nil ... Rs. Nil..... deducted as per list belo .....

.....

5. Arrangement has been made to pay the unpaid Rs. 256.30 in cash through pay Clerk/by money order less commission/by cheque on to the address of the party in present of as per MOP as per letter of authority submitted by the party.

.....

( On box)

For Financial Adviser & Chief  
Accounts Officer Northeast  
Frontier Railway, Pandu.

1. Copy to Smt Giribala Barman C/O. Bari Ram for information.

-: 2 :-

The amount is payable to Barman on his own behalf and behalf of his minor children as mother and as natural guardian/as defacto guardian nominee Vill. Nayati Mara, P.O. Bangaigaon.

2. The Chief Cashier, Pandu or the pay Clerk .....  
..... may be contacted for any delay in receipt of the amount quoting reference to A.B. No. 39 Ns F. of 29.10.94 included in C.O 7 No.

Sd/- Illegible,

For Financial Adviser & Chief Accounts Officer

Northeast Frontier Railway, Pandu

DI Goalpara (Assam)

• • •

Attested  
Certified to be true copy  
R. S. S.  
Advocate  
8.4.2012

ANNEXURE - B

No. Fen/Elec/80

Office of the  
FA & CAO  
Northeast Frontier Railway  
MALIGAON :: GAUHATI- II  
Dated - 21.3.75.

To

DEE(W)/NBO

Sub:- Grant of pensionary Benefits to Smt. Giri  
Bala Barman W/O. Late M.M. Barman Ex-khalase

Ref :- E/PC/M Barman dt. 21.3.75 Barman Ex-Khalashi

It is for your information that :

1. D.C. R.G. payments amounting to Rs. 632/-  
A. Has been passed for payment vide A.B.No. 13 PEN.  
Dated 15.3.75 and CO. 7 No. 0700006 PS Dated 200375
2. Out of the sum of Rs. 632/- A sum of Rs.... has been withheld, a sum of Rs. 300/- has been recovered and arrangement has been made to pay the net amount of Rs. 332/- to the payee by M.O. less commission as per mode of payment. Particulars of recoveries are shown below :

Flood adv. Rs. 300/-

For F.A. & CHIEF ACCOUNTS OFFICER  
N.F. Railway, Maligaon.

Copy for information to :-

- 1.
2. CPO (Budget)/MLG
3. Shrimati Giri Bala Barman C/O. Shri Mati Lal Barman  
Vill. Naytamura P.O. Busugaon Dist. Goalpara.  
She will kindly contact the C.C./N.F.Rly/Maligaon in case  
of any delay in receipt of payment quoting AB No. & Co  
7 No. with date as cited above.

Sd/- Illegible.

For F.A. & CHIEF ACCOUNTS OFFICER  
N.F. Railway, Maligaon.

*Attested*  
Certified to be true copy  
R. Das  
Advocate  
(8.4.2002)

ANNEXURE - B<sup>2</sup>

Authority for payment of family pension by the Railway  
Accounts Officer to the Accountant General through whom  
pension is payable

Registered with  
A/D.

Office of the  
FA & CAO  
Northeast Frontier Railway

MALIGAON :: GAUHATI- 11

No. Fen/Elec/30

Dated 21.3.75

To  
the Accountant General,  
Assam, Shillong.

Sir,

I am to forward herewith a copy of the family pension application with the orders of the sanctioning authority, and my accounts enforcement, to the grant of family pension of Rs. 60/- Rupees Sixty only a month to Smt. Giri Bala Barman, W/O. late Manmohan Barman, Ex.-Khalasi, under DEE9 (W)/NBO with effect from 8.1.73 the eight<sup>th</sup> day of January nineteen hundred and seventy three.

only a month to the life of the widow or until she is remarried whichever is earlier. The right hand thumb and finger impression, specimen signature of the pensioner, her photo, her permanent address, and last pay certificate are enclosed.

I am now to request you kindly to arrange the payment of the family pension noted above from <sup>the treasury</sup> Kokrajhar. The pension payment order may be issued as early as possible under advice to the payee <sup>his</sup> office.

The pension is debit able to this Rly. Rev. Abstt. 'N' under Grant No. 16.

No. portion of pension has been commuted.

-: 2 :-

the payee is being informed at the following address :-

Smti Giri Bala Barman  
C/O. Shri Mati Lal Barman,  
Vill. Naytamara, P.O. Basugaon,  
District Goalpara.

No adhoc increase on family pension is admissible.  
Please acknowledge receipt.

Yours faithfully,

For F.A. & CHIEF ACCOUNTS OFFICER  
N.F. Railway, Maligaon.

Enclo :- As above.

Copy to 1. CBO/Budget, Maligaon.

2. DEE(W)/NBQ

3. Shrimati Giri Bala Barman C/O. Shri Moti Lal Barman  
village Naytamara P.O. Basugaon Dist. Goalpara,  
Assam

\* She is requested to refer to A.G/Assam/Shillong in  
case of any delay in receipt of payment quoting  
authority No.

with date as cited above.

Sd/- Illegible,

For F.A. & CHIEF ACCOUNTS OFFICER  
N.F. Railway, Maligaon.

Attested  
Certified to be true copy.  
R. Das  
Advocate  
8.4.2002

To,  
The Divisional Officer,  
N.F.Rly. Alourduar Jn.

Dear Sir,

Sub:- Final Settlement with Lat. Man. Mohan  
Burman Ex. Kha. Under DEE(W)/NBO.

Ref :- Your L/No. PF/FS/134/73/APD/DEE/W  
dated 17.7.73.

An amount of Rs. 262.00 was passed under  
your above letter in connection with the settlement  
dues of my Late Husband Late Mon. Mohan Barman and a  
money order was sent to me. It is learnt that the  
money order has been returned by postal authority  
without giving any information to the undersigned.

Under the above facts, I would earnestly  
request you to send the amount after deducting money  
order commission and thus saved a bereaved family  
from starvation.

Thanking you.

Yours faithfully,

( Giri Bala Barman.)  
Dated the 1st Sept/73. G.O. Mati Lall Barman,  
Vill. Naytamara.  
P.O. Basugaon,  
Dist.- Goalpara (Assam).

Copy to post Master/Basugaon for information. He is  
requested to let the undersigned the reason of returning  
the money Order without giving any information to the  
undersigned.

Yours faithfully,

*Attested  
Certified to be true copy  
R. Das  
Advocate  
8/4/2002*

ANNEXURE - C

S.Y. 154.

See Paragraph 536, M.S.O.(T)-Vol-I )

OFFICE OF THE ACCOUNT WT GENERAL:

ASSAM MEGHALAYA: ARUNACHAL PRADESH  
AND MIZORAM SHILLONG (793001 )

No.

Dated

From :- Office of the Accountant General,  
Assam, Meghalaya, etc.  
Shillong.

To,

THE TREASURY OFFICER, DHUBRI.

Sir,

I am to forward herewith P.P.O.No. NFR/SF/344 in favour of Smt. Giri Bala Barman, W/O, Late Mono Mohan Barman aged to request that the pension's portions of the order may be made over to him/her after obtaining his/her signature on the disburser's portion after you have satisfied yourself of his/her identity and payments noted on both the portion as they are made. The slip bearing the left hand thumb and finger impression of the pensioner is enclosed.

If the pensioner wishes to draw his/her pension through an authorised agent, the pensioner's portion the pension payment order may on the application by the pensioner, be sent to the authorised agent through registered post provided the latter has executed a bond of Indemnity to refund overpayments. A written acknowledgement of the

39  
-: 2 :-

receipt of the pensioner's portion of the pension payment order should, however, be obtained from the pensioner through the Agent for record.

Please acknowledge receipt.

Yours faithfully,

Sd/-

No. DPen 8/4414

Dated 9th April 1975

Copy forwarded to -

Srimati Giri Bala Barman, W/O. Late Monomohan Barman Government pensioner. He/she should appear before the Treasury Officer, Dhubri, to receive payment. If however, he/she wishes to be exempted from appearing in person to receive his/her portion of the pension payment order and to draw his/her pension through an authorised Agent, he/she should apply to that effect to the treasury Officer through the Agent, who should have executed a bond of indemnity to refund overpayments. In the latter case, the pension payment order will be sent to him/her through the Agent.

C/O. Shri Mati Lal Barman,  
Village- Nayatamara, P.O. Basugaon,  
District Goalpara

Sd/- Illegible,  
Section Officer,  
2/4

NOTE :- In cases where P.P.O. is issued with the stipulation that no payment is to be made until an intimation to the effect that has been produced to the Accountant general's received from the Accountant General as required under second sub para 313 of M.S.D. (T) Vol I the same may be indicated suitably at the endorsement to the pensioner.

Attested  
Certified to be true copy  
R. Das  
Advocate  
8.4.2002

...

To,

The General Manager (P), N.F.Rly., Maligaon.

Through DEE/W/NBQ.

Sir,

Sub:- Appointment on compassionate ground.

I the widow of late Man Mohan Barman, a Khalasi under ASS/M/WS/NBQ under the administration control of DEE/W/NBQ beg to inform you the following few lines for sympathetic consideration and early order please.

That my husband who been working as Khalasi under ASS/M/WS NBQ expired on 8.1.73 leaving behind his widow and minor son. That, there is none to look after me and my son.

Finding no alternative way, I have been compelled to waste your valuable time with a request to appoint me in any class IV category under your kind control.

As regards my educational qualification and fitness for the post I beg to state that I read up to Class IV. I am a young widow of 32 years of age with sound health and good physique.

May I therefore pray and hope that your honour would be kind enough to appoint me in any Class IV category and thus saved a bereaved family from crisis.

May God bless you.

Attested  
Certified to be true copy  
R. Basu, Advocate  
P. H. 2000

Dated, Basugaon  
the 2nd Sept/85

Yours faithfully,  
Sd/- Giri Bala Barman,  
C/O. Mati Lal Barman,  
Vill Naytamara,  
P.O.- Basugaon,  
Dist. Kokrajhar, Assam.

To,

The General Manager (P), N.F.Rly.,  
Maligaon, Guwahati - 11.

Through DEE/W/NBQ.

Sir,

Sub:- Appointment on compassionate ground.

Ref:- My application dt. 2.9.85 and reminder  
dt. 22.9.86.

With due respect I have the honour to let you know that my first application dt. 2.9.85 was forwarded to you under DEE/W/NBQ's L/No. EL/E/227/Q/1/7883 dt. 13.9.85. But so long nothing was heard from you as yet.

Now, on personal approach, APO/NBQs has verbally told me that my case is more than 5 years old for which this case cannot be done from NBQ, because, my case requires GM's approval.

Under the circumstances, you are fervently requested kindly to approve my case and provide me with a job so that my family can survive from the cluster of ruin.

True copy of my previous application dt.- 2.9.85 is also enclosed herewith for your ready reference please.

With great hope.

Yours faithfully

Sd/ Giri Bala Barman  
C/o. Late Man Mohan Barman,  
C/o. Mati Lal Barman,  
Vill. Naytamara,  
P.O. Basugaon,  
Dist. Kokrajhar, Assam.

Enclo : One true copy

Dt. 31.3.87.

Attested  
Certified to be true copy  
R.B.B.  
Advocate  
(P.H. 202)

PABAN SINGH GHATOWAR

DEPUTY MINISTER  
FOR HEALTH & FAMILY WELFARE  
GOVERNMENT OF INDIA  
NEW DELHI - 110011.

May, 1994.

Dear Shri Jaffer Shariefji,

I am forwarding herewith copy of an appeal from Smt. Giri Bala Barman, widow of late Shri Monmohan Barman, Ex-Khalasi under District Electrical Engineer (W), NF Railway, New Bongaigaon praying for her appointment in any Group 'D' post on compassionate grounds.

Since the tragic death of her husband in 1970 Smt. Barman has been approaching the Railway authorities for her appointment on compassionate grounds but without any success.

I shall be grateful if you could have the matter Considered sympathetically.

With regards.

Yours sincerely,

Sd/

Encl : as above.

( PABAN SINGH GHATOWAR )

Sri C.K.Jaffer Sharief,  
Union Minister for Railways,  
Government of India,  
Rail Bhavan,  
New Delhi.

Copy to :

Smt. Giri Bala Barman,  
W/O. (Late) Shri Monmohan Barman,  
Ex-Khalasi, Office of District Electrical  
Engineer (W) NF Railway, New Bongaigaon

Sd/- Illegible,  
(V.NAIR)

FIRST PA TO DM.

Attested  
Certified to be true copy  
R. A. S.  
Advocate  
8/4/94

Annexure-F<sup>1</sup>

Dated-2-2-2002.

To,

The General Manager (P) N.F.Railway,  
Maligaon, Guwahati-11.

Sub:- Appointment on compassionate ground.

Sir,

With due respect and humble submission, We beg to state that we are the widow and son of Late Monomohan Barman (Khalasi) who died in harness on 8.1.1973 at Bongaigaon during the course of his employment.

That sir, it is the rule of the Railway department that whenever an employee of department dies in harness his next of kin are entitled to seek employment in the same department on compassionate ground and so myself and my son have made joint representations so that any one of us can get appointment on compassionate ground.

That sir, your rejection of my prayer for compassionate appointment vide order dated 29.7.88 and 11.12.5.89 has placed at the garb of poverty.

Under the circumstances, we fervently pray to your good office to kindly consider my case for compassionate appointment at an early date. So that we can lead human life with dignity.

Yours faithfully,

Sd/- Giribala Barman,  
and Bhabesh Barman.

Attested  
by  
R. D. De  
Advocate  
8.4.2002

...

N. F. Railway.

NO. EL/E/227/Q/1-630

Dated 8/4/87.

To: GM(P)/Maligaon.

Sub:- Application of Smt. Giri Bala Barman  
W/O late Man Mohan Barman, Ex: Khalasi under DEE/  
W/NBQ for appointment of class IV post on  
Compassionate Ground.

....

The above application dated 3.1.3.87 submitted by Smt.  
Giri Bala Barman, W/O Late Man Mohan Barman, Ex. Khalasi  
under ASS/M/WS/NBQ regarding appointment in any Class-IV  
Category on compassionate ground is forwarded herewith  
for your consideration please.

In this connection it is mentioned that her previous  
application in Original along with the death certificate  
of her husband was forwarded under this office letter  
No. EL/E/227/a/1/7883 dated 13.9.85 which may please be  
referred to.

DA:- Two applications

DEE/W/NBQ.

Copy to :- Smt. Giri Bala Barman, W/O. Late Mon Mohan  
Barman, Ex. Khalsi, C/O. Mati Lal Barman,  
Vill.- Naytamara, P.O. Basugaon, District  
Kokrajhar, Assam for information.

Sd/- Illegible,

DEE/W/NBQ.

Attested  
Certified to be true copy.  
R. Das  
Advocate  
8-4-2002

MU/C/10/88

11.4.1988

To,

The General Manager (P),  
N.F. Railway, Maligaon.

Dear Sir,

Sub:- Appeal of Srimati Giri Bala Barman,  
W/O. Late Manmohan Barman, Ex. Khalashi,  
DEE(W)/NBQ for appointment in Group 'D'  
post on compassionate ground.

-----

Shri Manmohan Barman, Ex. Khalashi, DEE(W)/NBQ died a premature death on 8.1.73 leaving behind the widow and a son on her lap. The widow has submitted an appeal for her appointment on compassionate ground in Group 'D' post. Her appeal has also been forwarded to you vide BEE (W)/NBQ's letter No. RL/E/227/\*Q/1/7883 dated 13.9.85, followed by reminder vide No. EL/E/227/Q/1-630 dated - 8.4.87.

The widow is now 32 years' old. The only son is still minor. They are passing days through serious economic crisis.

Hence, you are requested to appoint the widow in any Group 'D' post on compassionate ground.

Yours faithfully,

for General Secretary,  
N.F. Railway Masdoor Union, Pandu.

Copy to- The Secretary, N.F.Railway Masdoor Union  
Union New Bongaigaon (2 copies) for information.  
One copy may be handed over to Srimati  
Bulbuli Talukdar of DEE(W)/NBQ's office.

Sd/- Illegible,

12.4.88

for General Secretary,  
N.F. Railway Masdoor Union, Pandu.

Attested  
Certified to be true copy  
R. P. S. Advani  
8.4.2002

Northeast Frontier Railway.

COP Office of the MLG.

No. 586 E/81/1 (W) MU Pt-1/  
1064

Date 9.6.89

To : DEE(W)/NBQ.

Sub:- Appointment on compassionate ground  
in favour of Smt. Giri Bala Barman  
W/O. Lt. Manomohan Das Ex. Khalasi.

Ref :- Your letter No. EL/E/257/Q/1/1427  
dt. 29.7.88 & EL/E/257/Q/1/620  
dt. 11/12/5.89.

Late Manomohan Barman died on 8.1.73 and  
the widow applied after 12 yrs. of her husband's  
death for Apptt. on comp. grounds and as per  
rules it is a  
time barred case and cannot be considered as per  
extant rules.

The widow may be informed accordingly.

Sd/- For COP/Maligaon.

Copy of COP/MLG's letter is forwarded to Smt.  
Giribala Barman W/O. Lt. Manmohan Barman, Vill.  
Naitamari P.O. Basugaon, Dist. Kokrajhar (Assam).

Sd/- Illegible,  
DEE(W)/NBQ.

Attested  
Certified to be true cert  
R. S. S.  
Advocate  
8-4-202

...

- 30 -

Northeast Frontier Railway.

Office of the  
DEE(W)/NBQ.

No. EL/E/257/Q/1/

Dated, /9/91.

To : GM(P)/MLG.

Sub :- Appeal of Smt. Girebala Barman W/o Late  
Manmohan Barman, Ex. Khalasi under  
DEE(W)/NBQ for appointment in group  
"D" post on compassionate ground.

An appeal for appointment on compassionate ground was submitted to GM(P)/MLG by Smt. Girebala Barman W/o Late Manmohan Barman Ex. Khalasi after a long interval in the year '88 due to illiterate & egnorancy of the widow, although her husband was expired in the year 1973. Copy of the appeal also was submitted by widow to Secy. of M.U. New Bongaigaon Branch. As per your letter No. 586E/81/1 (W)MU Pt.I dated, 30.5.88 you were asked to submit some particulars of the widow in a prescribed proforma sent for your end.

Vide this office L No. EL/E/257/Q/1/1427 dt. 1.7.88. The desired particulars in prescribed proforma was submitted for consideration sympathetically on the ground that she belongs to ORS widow and her financial condition is very poor which does not permit her for survivel with minimum pension at present.

*Attested*  
Certified to be true copy  
R. Das  
Advocate  
22-4-2002

District Electrical Engineer(W),  
N.F.Rly/New Bongaigaon.

Duplicate

Book No.-

Serial No. 2985

Primary School Leaving and transfer certificate 2000

Certified that Sri Bhabesh Chandra Barman S/o Late Manmohan Barman, Caste - Hindu is an inhabitant of village Nayanchara, P.S. Basugaon, Sub-Division Kokrajhar district Kokrajhar was a student of 818 Sonamukhi Nayachara Primary School. He completed his education on 30th day of April, 1985 in this school. He has passed in 1st division in the class IV(four) final examination of the school. His character was good during his study in the school.

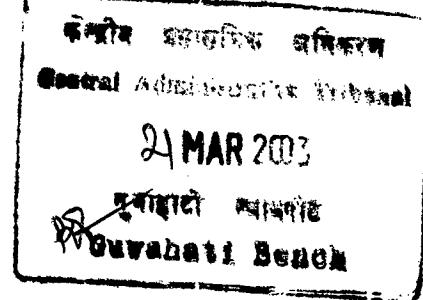
His age on 1st January, 1985 is 11(eleven) years 4(four) months 20(twenty) days as per the school Admission Registrar.

Date : 10.8.2000

Sd/- Chandra Mohan  
Head teacher/mistress  
818 No. Sonamukh Nayachara Primary  
School,  
P.O. -  
District -

- X -

Attested  
Certified to be true copy  
S. K. Barman  
Advocate  
8.4.2001



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

IN THE MATTER OF :

O. A. No. 116 of 2002

1. Smt. Giribala Barman

Widow of Late Mon Mohan Barman.

2. Sri Bhabesh Barman

Son of Late Mon Mohan Barman,

Ex-Khalsa under DEE/WS/Now Bongaigaon,

N. F. Railway.

.... Applicants.

- VS. -

1. Union of India.

2. The General Manager,

N.F.Railway, Maligaon,

Guwahati-11.

3. The District Electrical

Engineer (W), N.F.Railway,

Now Bongaigaon.

4. The Chief Personnel Officer,

N. F. Railway, Maligaon,

Guwahati-11.

.... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of the  
respondents.

-: 2 :-

The answering respondents most respectfully beg to sheweth as under :

1. That, the answering respondents have gone through the copy of the application filed by the applicants and have understood the contents thereof.
2. That, the application suffers for want of valid cause of action and or right for filing the application.
3. That, the application is not maintainable in its present form and is fit one to be dismissed in limine.
4. That, the application is barred under the law of limitation and Under Section 21 of the Central Administrative Tribunal Act, 1985. It has been filed after more than 30 years from the date of death of Late Mon Mohan Barman who was working as Khalasi under District Electrical Engineer (w.s.), New Bongaigaon, N.F. Railway.

Record shows that :

(a) Smt. Giribala Barman widow of Late Mon Mohan Barman applied for compassionate appointment on 2.9.1985 for the first time i.e. after about 12 years from the date of death of the ex-employee. Her application for appointment was rejected in 1989 by the Railway Administration <sup>on</sup> ground of its being time-barred.

- 3 -

(b) No application for appointment appears to have been submitted for compassionate appointment by the applicant No. 2 i.e. Sri Bhabesh Ch. Barman, the son of Late Barman though as per rule, the application for appointment of son is to be made within 2 years of attaining the majority.

It appears, the boy attained majority in August, 1991 and even if period of 20 years is taken, he should have applied for appointment by August, 1993.

5. That, none of the allegations/averments of the applicants in this application are admitted or accepted as correct save and except those which can be shown to have been borne by record or are specifically admitted by the respondents hereunder and the applicants are put to strict proof of all such statements which are not admitted hereunder.

6. That, all actions taken in the case are quite in consonance to the rules and procedures in vogue and all actions have been taken after going thoroughly into the merit and facts of the case and there has been no illegality, irregularity or arbitrariness etc. in the case as alleged.

7. That, for the sake of brevity, the respondents have been advised to confine their reply/submissions only to the relevant points in the case which are material for the purpose of a proper decision in the case and thus the meticulous

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denial of each and every statements of the applicants have been avoided without admitting the correctness of all statements not admitted in the written statement.

8. That, with regard to averments at paragraphs 4.1, 4.2 and 4.3 of the application, the respondents admits only the statements which are borne on records. [It is a fact that Late Mon Mohan Barman expired on 8.1.1973 while he was in service on the Railways as Khalasi under District Electrical Engineer/Workshop/New Bongaigaon and he had faithful record of service.

The annexures attached to the application B, B<sup>1</sup>, B<sup>2</sup>, B<sup>3</sup> and C shows inter-alia that the widow of Late Barman was granted Family pension with effect from 8.1.73 at the rate of Rs.60/- per month and that as the amount of Rs.262.00 which was sent by Money Order to her was returned by the Postal authority, she prayed to the Divisional Accounts Officer, Alipurduar Junction to send back the amount to her after deduction of the Money Order Commission as to save the bereaved family from starvation etc.

9. That, with regard to averments at paragraphs 4.4 and 4.5 of the application it is submitted that nothing are accepted as correct except those which are borne on records or are admitted specifically hereunder and that for the rest of the averments, the applicants are put to strictest proof thereof. It is submitted that the Welfare Inspectors of this Railway render various welfare jobs for welfare of the staff and their families including rendering assistance to the family of the deceased employee to get the final settlement dues etc. wherever they require and seeks such assistance.

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As this is a case of more than 30 years old it could not be ascertained as to what actions were taken in the present case at that relevant time. However, from own assertions of the applicant in this application it appears that a Welfare Officer visited the residence of the ex-employee after receipt of the news of death of the ex-employee (Late Mr Mohan Banerjee) and rendered necessary assistance. It does not appear to be correct contention of the applicant (widow of the ex-employee) that she was not guided to submit application for appointment on compassionate ground and hence the allegations are not admitted. *1991*

It is also submitted that the applications dated 2.9.85 and 31.3.87 as stated to have been forwarded by the District Electrical Engineer(WS)/New Bongaigaon vide letter No.EL/E/227/Q/1/7883 dated 13.9.1985 and No.EL/E/227/Q/1/630 dated 8.4.87 does not appear to have been received in the General Manager(P)'s office. However, the application dated 30.6.88 as was forwarded by the District Electrical Engineer(WS)/New Bongaigaon vide his letter No.EL/E/257/Q/1/1427 dated 1.8.88 was received and examined but the request/prayer for appointment could not be considered as the application for appointment was received from the widow after a lapse of 5 years from the date of death of the ex-employee. Moreover, the Zonal Railways have no ~~executive~~ power to consider the cases of more than 5 years. Rather, it appears from the statements of the applicants that they approached different authorities including Railway Ministry at New Delhi.

As per Railway Board's letter No.E(NG)/III/78/RG-1/1 dated 7.4.83, application for appointment should be made within 5 years from the date of death of the ex-employee.

10. That, as regards averments at paragraphs 4.6 and 4.7 of the application it is submitted that as she (Applicant No.1) submitted application after 5 years from the death of her husband, her prayer became time-barred and hence in terms of Railway Board's letter dated 7.4.83 quoted above, it was not within the competence of the Zonal Railways to consider her case for appointment on compassionate ground.

Photo Copy of Railway Board's letter no. E(CNQ)II/78/Rc-I/ dated 7.4.83 is annexed hereto as Annexure I for ready peruse.

Further, it is submitted that no application for appointment of Shri Bhabesh Ch. Barman (applicant No. 2) son of Late Mon Mohan Barman, ex-employee under District Electrical Engineer/W/Now Bongaigaon has been received. As per rule, the application for appointment of the son of the ex-employee is to be made within 2 years of attaining majority. From the School certificate enclosed by the applicant it is revealed that the School certificate was issued only on 10.8.2000, in favour of Shri Bhabesh Ch. Barman which indicate clearly that the widow did not apply for her son's appointment on compassionate ground.

Photo copies of Rly. Board's letter no E(CNQ)99/Rc-I/Parly/23 dated 30.11.99 and E(CNQ)II/98/Rc-I/64 dated 28.7.2000 are annexed hereto as Annexure II respecting regard which

That, as the grounds have also been submitted under this paragraph 4.7, the following submissions are made as under :

(ii) that none of the grounds as mentioned under sub-paragraphs 4.7(a), 4.7(b), 4.7(c), 4.7(d), 4.7(f) and 4.7(g) are admitted as correct or tenable and hence denied. It is denied that the impugned order dated 9.6.89 is illegal or that there were any lapses or deficiencies etc. in the Welfare Officer as alleged or

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Other Personnel Office (A)  
R. P. Rly. / Malgaon  
Goverment of

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there were deviation in the object and policy of Welfare Scheme on the Railways or that the Order dated 9.6.98 rejecting her time barred application was passed without application of mind or diligence or there had been of any violation of natural Justice etc.

11. That, in view of what have been submitted in the foregoing paragraphs of this Written Statement, none of the grounds as mentioned in paragraph 5 and relief as claimed under paragraphs 8 and 9 of the application are sustainable under law and fact of the case, and ~~as~~ as such, the prayers of the applicants are liable to be rejected.

It is emphatically denied that there has been any act of malafide, harassment or discrimination or whimsical or unilateral or arbitrary action in the case or that there has been any denial of social or economic Justice as enshrined in the Constitution of India or there has been any illegal, arbitrary or any violation of natural Justice and or administrative fair policy or violation of Articles 14 and 16 of the Constitution of India.

It is submitted that, there is no fault of the Railway Administration in the case and that the applicants should blame themselves instead of putting blame on the Railway Administration.

12. That, it is submitted that all the actions taken in the case by the respondents are quite legal, valid and proper and have been taken after due application of mind and

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that the present case of the applicants is based on wrong promises and suffers from mis-conception and mis-interpretation of rules and laws on the subject, besides basing on surmise/prospects only.

13. That, necessary enquiries are still under progress and the answering respondents crave leave of the Hon'ble Tribunal to file additional Written Statements, if found necessary after such enquiries, for ends of Justice.

14. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the Written Statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.

..... Verification

-: 9 :-

VERIFICATION

I, A.K. Nigam son of  
Late S.P. Gaurha aged about 48 years  
by occupation Railway Service, working as Chief  
Personnel officer (Admn.) of the N.F. Railway  
Administration at Maligaon, Ghy-11, do hereby  
solemnly affirm and state that the statements made  
in paragraphs 1 and 7 are  
true to my knowledge and those made in paragraphs  
4, 8, 9 and 10 are based on  
information as gathered from records of the case  
which I believe to be true and the rest are my  
humble submissions before the Hon'ble Tribunal and  
I sign this verification on this 7<sup>th</sup> day of  
March, 2003.



**NORTHEAST FRONTIER RAILWAY: :**  
FOR AND ON BEHALF OF  
UNION OF INDIA.

Chief Personnel Officer(A)  
N.F. Rly, / Maligaon  
Guwahati-3

SN-12

59

Copy of Rly. Board's letter No.E(NG)III/78/RC1/1 dated 7.4.83.

Sub:- Appointment on compassionate grounds.

Instructions regarding appointment on compassionate grounds have been issued from time to time. The instructions currently in force are these contained in Board's letter No.E(NG)III-78/RC1/1 dated 30.4.1979 as modified from time to time thereafter. These have now been consolidated and are reproduced below for the information and guidance of all concerned.

**I. Circumstances in which compassionate appointment may be made.**

Appointments on compassionate grounds relate to those appointments which can be made of dependents of Railway servants who loss their lives in the course of duty or die in harness otherwise while in service or are medically incapacitated. The circumstances in which appointments on compassionate grounds may be made are as below:

- (i) When Railway servants loss their lives in the course of duty or get so crippled that they cannot do any work (this also in the course of duty for example, loco and traffic running staff in charge of trains involved in accidents).
- (ii) When Railway employees die in harness while in service before retirement.
- (iii) Where an employee's whereabouts are not known for a period of 7 years and the settlement dues of the employee are paid to the family on this account. This limit of 7 years may be relaxed to 3 years on the merits of each case with the approval of the General Manager, subject to the condition that the services of the person appointed on compassionate grounds would be terminated in case the missing employee is traced subsequently.
- (iv) When Railway employees become crippled while in service or develop serious ailments like heart diseases, cancer etc. or otherwise medically declassified for the job they are holding and no alternative job of the same emoluments can be offered to them.

**Note:-** The appointment on compassionate grounds is admissible to the dependents/wards of regular employees only.

**II. Procedure**

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II. Persons eligible to be appointed on compassionate grounds.

Son/daughter/widow/widower of the employees are eligible to be appointed on compassionate grounds in the circumstances in which such appointments are permissible. The benefit of compassionate appointments may also be extended to a "near relative". The eligibility of a near relative to such appointments will be subject to the following conditions:

- (i) The employee or the ex-employee should have no son or daughter or the son or daughter is a minor one and the wife/widow/widower cannot take up an employment.
- (ii) A clear certificate should be forthcoming from the wife/widow/widower that the near relative will act as the bread winner of the family.
- (iii) If the family certifies at later date that the near relative who was appointed on compassionate grounds refused to support the family the services of that employee are liable to be terminated.
- (iv) Once a near relative is appointed on compassionate grounds no further appointment should be given later to a son or a daughter or the wife/widow/widower of the employee on compassionate grounds. The appointment of a near relative should not be considered if a son or the daughter or the wife/widow/widower is already working and is earning.

Note (B): Near Relative would normally mean a blood relation who can be considered to be a bread winner for the family.

III. Time limit for making compassionate appointments.

Normally all appointments on compassionate grounds should be made within a period of 5 years from the date of occurrence of the event entitling the eligible person to be appointed on this ground. This period of 5 years may be relaxed where for example the widow cannot take up employment & the sons/daughters are (minor) with the approval of the General Manager in deserving cases while compassionate appointments are sought on the ground of an employee losing his life or getting crippled in the course of duty. In other cases relaxation of the 5 year limit will require the approval of the Ministry of Railways for which purpose the requisite reference giving special reasons for the proposed relaxation should be made with the personal recommendation of the General Manager based on the special circumstances obtaining in individual cases.

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#### IV. Qualifications and conditions to be fulfilled.

Normally the persons seeking appointment on compassionate grounds should fulfil the conditions of eligibility regarding age and educational qualifications prescribed for appointment to the post or grade concerned. However, the upper age limit may be freely relaxed on the merits of the cases. The lower age limit of 18 years normally required for appointment in Government may also be relaxed upto one year with the personal approval of the General Manager. Relaxation of the lower age limit beyond one year will require the approval of the Ministry of Railways.

The educational qualification prescribed for the post to be offered should not in any case be relaxed. However, if on the merits of an individual case the General Manager feels that such a relaxation of the minimum educational qualification is absolutely necessary, then such cases may be referred to the Ministry of Railways.

#### V. Grades in which appointments can be made on compassionate grounds.

All appointments on compassionate grounds should be made only in the recruitment grades like Office Clerks, Commercial Clerks, Assistant Station Masters, etc. No appointment should be made on compassionate grounds in an intermediate grade i.e. one which is filled purely by promotion. Appointments on compassionate grounds are also not permissible in the category of Traffic Apprentices/Commercial Apprentices (grade Rs.455-700) and Engineering graduate apprentices (grade Rs.550-750) because direct recruitment in these grades is proportionately very limited.

#### VI. Procedure to be followed before making compassionate appointments.

The candidates applying for appointments on compassionate grounds should be subjected to a suitability test by a committee of three Senior Scale Officers one of whom should be a Personnel Officer. The test need not be very rigid. It has only to be ensured that the person concerned would be in a position to discharge the duties of the post being offered to him. The test is also meant to assess the aptitude of the person for the particular job proposed to be assigned to him. It should be conducted keeping compassion in view which is the basis for such appointments.

The candidates who are to be offered appointments on compassionate grounds may also be required to submit a character certificate from two Gazetted Officers.

#### VII. Authority competent to make appointments on compassionate grounds.

The power to make compassionate appointments is vested to the General Manager. The General Manager may, however, redelegate this power to the Divisional Railway Manager and also to Heads of the extra Divisional units who are in Level I or Level II subject to such control as he may like to impose on the exercise of such power by these authorities. Proposal for appointment on compassionate grounds of dependents of Gazetted Officers should, however, be referred to the Ministry of Railways for approval.

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VIII. Priorities to be observed in making appointments on compassionate grounds.

The following should be the order of priority to be followed while making appointments on compassionate grounds:-

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

for the proper enforcement of priorities, separate lists should be maintained in each office for the categories indicated above, the date of priority being from the date of eligibility. All appointments should be made strictly in this order. Where, for any special reasons, it is felt necessary to depart from the priority list, the sanction of the next higher authority (CPO. for appointments to group 'D' posts) must be obtained giving details for ignoring the priority and the list of persons being put back in the priority list. Such cases should, however, be rare.

A time limit of one month should be observed within which appointments should be given in priority (i) cases and three months in cases relating to priority (ii) and (iii) subject to vacancies being available. To accommodate the illiterate widows of the deceased railway employees, posts of Waiting Room bearers, Waterwomen, Hospital Ayah/attendant (female), Cinder Picking women, Sweeper women, C&W Khalasis for waste packing, Retiring room attendant, Servers, Khalasis attached to Sub-divisional offices like AEN's office PWIs, a percentage of vacancies of office peons etc.

IX. General.

When offering appointment on compassionate grounds to a widow, son, daughter, etc. it need not be checked up whether another son/daughter is already working; but in no case should there be more than one appointment against one death/medical incapacitation. For example, it should not be permitted where the family wants another son or daughter to be employed in lieu of an addition to an appointment already made on compassionate grounds.

Once an appointment on compassionate grounds of the ward/widow etc. has been made in a particular category, no change of category is subsequently permissible.

X. Relaxation

Wherever any deviation from the above provisions are sought to be made in individual cases of merit, the prior approval of the Ministry of Railways should be obtained and in such cases personal approval of the General Manager should be indicated in the references.

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N.F.Railway

Office of the  
General Manager (P)  
Guwahati-781011

No.586E/81/9(W)Pt.III

Maliagon, dated 20-12-99

To : DRMs/KIR, APDJ, IMG & TSK  
 DRMs(P)s/KIR, APDJ, IMG & TSK  
 DV.CMEs/NDQS & DBWS, CME/MIG  
 CSC/MIG, E& CAO/MIG, ARD/GHY  
 GM(Construction)/Maliagon  
 GSs/NFREU & NFMU/PNO, GHY-12  
 GSs/ASCTREA & NERDCEA/MIG, GHY-11

Sub :- Appointment on compassionate ground -  
 Delegation of Powers.

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A copy of the Railway Board's letter No.E(NG)II/99/RC-1/Gcnl/23 dated 30-11-99 on the above subject is forwarded herewith for information and guidance please.

*J. B. Mukherjee*  
20/12/99

for GENERAL MANAGER (P)

(Copy of Railway Board's letter No.E(NG)II/99/RC-1/Gcnl/23 dated 30-11-99)

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Sub :- As above.

Attention is invited to Board's letter No.E(NG)II/84/RC-1/26 dated 22-12-94 read with letter dated 06-10-95, under which powers have been delegated to the General Managers for considering cases of compassionate appointments where request have been made for the first son/first daughter within a period of twenty years of the employee's demise, subject to the conditions stipulated therein.

2. The matter has been further considered by the Board, pursuant to a demand raised by the Organised Labour in the JCM/DC, and it has been decided that powers may be delegated to DRMs/HODs, to consider cases of compassionate appointments where requests have been made for the first son/first daughter, provided the case is not more than twenty years old and the application has been submitted within 2 years from the date of attainment of majority of the candidate.

/CWMs

GC.20/12.

Copy attached

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20/12/99

N. F. RAILWAY.

Office of the  
GENERAL MANAGER(P)  
Gauhati-11.

No: REC/T- 905.

No: E/227/144 Pt. XI (C) ::

dated 18-9-2000.

To

GM(CONY/Mali 3000,  
All PHODs, DRMs, DAs, WAO/NBQs, DBWS,  
by.CMR/NBQs, DBWS,  
All Controlling officers of the non-divisionalised  
offices,  
The GS/NFREU, NFRMU, A1SCTREA & NFROBCEA/MLG.

Sub : Appointment on Compassionate grounds -  
Delegation of powers.

Ref : (1) Bd's letter No.E(NG)II/84/RC-1/26 dt.6.10.95.  
(2) Bd's letter No.E(NG)II/99/RC-1/Gon/23 dt.  
30.11.99.

A copy of Railway Bd's letter No.E(NG)II/98/RC-1/64 dt.  
28.7.2000(RB5 No.144/2000) and SC No.43 to MC No.16 on the  
above mentioned subject is forwarded for information and  
necessary action. Board's earlier letters dated 6.10.95 and  
30.11.99 as referred to their present letter were circulated  
under GM(P)/MLG's No.586E/81/0(W)Pt.II dt. 14.11.95 and  
586E/81/0(W)Pt.III dated 20.12.99 respectively.

*Quoted from*  
Sr Personnel Officer/HQ.  
for GENERAL MANAGER(P)/MLG.

(Copy of Ry. Bd's letter No.E(NG)II/98/RC-1/64 dt.28.7.2000).

Sub : As above.

1. Attention is invited to Board's letter No.E(NG)II/26 dt.6.10.1995 in terms of which the Ms are empow<sup>er</sup>ed from  
consider time barred cases which are upto 20 years old from  
the date of death of the Railway employee, provided that application  
is sought for the first son/first daughter of attaining the  
age of majority by the candidate. Board's letter dt. 30.11.99  
re-delegated to DRMs/C<sup>o</sup> further considered by the Board and it  
2. The General Managers may also be authorised  
has been cases upto 20 years old in the following types of  
subject to the condition that these powers will be  
exercised by him personally and not to be delegated further.

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- (ii) Compassionate appointment of 1st son/1st daughter where request has been made after a period of 5 years from the date of medical invalidation.
- (ii) Compassionate appointment of other than 1st son/1st daughter, where requests have been made after a period of 5 years from the date of death.
- (iii) Consideration of application submitted more than 2 years after the candidate became major.

8. While considering such requests for compassionate appointments, the General Manager should satisfy himself on the basis of a balanced and objective assessment of the financial condition of the family, that the grounds for compassionate appointment in each such case is justified, having regard to the number of assets and liabilities left by the Railway employee, income of any member of the family, as also his liability, including the aspect of whether the earning member is residing with the family of the deceased employee and whether he provides any support to the other members of the family, so that the facility of appointment on compassionate grounds is not circumvented or misused by putting forward the ground that the eldest son of the employee is staying separately and not supporting the family.

Dependents, Please acknowledge receipt.

S/No. Nadira Razak,  
Jt. Director Estt.(N)III, Railway Board.

hby -

Grub

~~Aug 19, 2000~~