

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

17

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 397/02

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SECTION OFFICER (Judl.)

Salits-
4.12.17

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 397 / 2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Smt. Parbati Devi

- Vs. -

Respondent(s): W/O 2 OAS

Advocate for the Applicant(s): Mr. G.K. Bhattacharyya

Advocate for the Respondent(s): Mr. B. Choudhury

Plf Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in m but not in time Admission is d / not C F Rs. 50/ deposited IPO/BE No 74 606925 18/12/02</p> <p><u>MB</u> 13/12/02</p> <p><u>NO steps</u></p> <p><u>Steps taken. Notice prepared</u> <u>and sent to Dls for filing</u> <u>the respondent No 1 to 4</u> <u>by Regd. A/D.</u> <u>19/12</u></p> <p><u>D/N 3446 w 3449</u></p> <p><u>Dtd 26/12/02</u></p> <p><u>W/s not yet filed</u> <u>14/2/03</u></p>	<p>16.12.02</p> <p>mb</p> <p>20.1.2003</p>	<p>Heard Mr. G.K. Bhattacharyya, learned Sr. counsel for the applicant assisted by Mr. B.Choudhury.</p> <p>The application is admitted Call for the records.</p> <p>List on 20.1.2003 for orders.</p> <p><u>Vice-Chairman</u></p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Heard Mr. B. Choudhury, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. who has appeared on behalf the Railway. On the prayer of Mr. Pathak, four weeks time is allowed to the respondents to file written statement.</p> <p>List on 17.2.2003 for orders</p> <p><u>Member</u></p> <p><u>Vice-Chairman</u></p>


17.2.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S. Biswas, Administrative Member.

Put up again on 18.3.2003 to enable the respondents to file written statement.

No. Written Statement has been filed

By
17.3.03

S Biswas
Member



Vice-Chairman

mb

18.3.2003 No written statement so far filed. List the matter on 23.4.2003 for filing of written statement.

No. Wks has been filed.

By
22.4.03.


Vice-Chairman

bb

23.4.2003 Heard Mr. S. Sengupta, learned Railway Stadding counsel. List again on 23.5.2003 enabling the respondents to file written statement.

No. Written Statement has been filed

By
22.5.03


Vice-Chairman

bb

23.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Administrative Member.

No. Written Statement has been filed

By
12.6.09

Heard Mr. D. Goswami, learned counsel for the applicant and also Mr. B.C. Pathak, learned counsel for the respondents.

Mr. Pathak, learned counsel for the respondents stated that written statement is in the process of filing. In that view of the matter the case is adjourned. Put up again on 13.6.2003 for written statement.


Member


Vice-Chairman

mb

Notes of the Registry	Date	Orders of the Tribunal
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13.6.2003

Present : The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. R.K.Upadhyaya, Member, (A).

Heard Mr. B. Choudhury, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents who has stated that written statement has been filed. Office to verify and report.

Put up again on 17.6.2003 for orders.

[Signature]

Member

[Signature]
Vice-Chairman

17.6.2003

Pleadings are complete. The case may now be listed for hearing on 14.7.2003. The applicant may file rejoinder, if any.

[Signature]

Member

[Signature]
Vice-Chairman

14.7.2003

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Member (A).

Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents stated that he is yet to get the records and accordingly prayed for time. Prayer is allowed. List again on 22.7.2003 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

Pt. copy order dated 13/6/03.

W3 16/6/03

16/6/03

Written statement on behalf of the respondents 1-4 found on the filing table without filing date, seal and signature of the deponent. The D/A is on leave. W/S has been filed on behalf of R. 164 at page 51-53.
W3 16/6/03

No. rejoinder has been filed.

200 11.7.03

mb

Notes of the Registry Date Orders of the Tribunal

22.7.03

Present : The Hon'ble Mr Justice D. N. Chowdhury, Vice-Chairman
The Hon'ble Mr N.D. Dayal, Admn. Member.

Heard in part. put up again on 28.7.2003 for hearing.

Member

Vice-Chairman

pg

28.7.2003

On the prayer of Mr. B. Choudhury, learned counsel for the applicant the case is adjourned. Put up again on 31.7.2003 for hearing.

Member

Vice-Chairman

mb

31.7.2003

In the course of hearing, Mr. B. C. Patraik, learned Counsel appearing for the respondents, says that he has been away for 3 weeks for producing some records.

He has been away for 3 weeks for producing some records. He has been away for 3 weeks for producing some records.

Also
Hearing

mb has been billed.

22/9/03

12.9.03

Additional N/s submitted by the respondent Nbs. 1 to 4.

Do.

18.8.2003

Present: The Hon'ble Mr. K.V. Prahaladan Administrative Member.

The case is adjourned and again listed for hearing on 10.9.2003.

K.V. Prahaladan
Member

bb

10.09.2003

Put up again on 24.10.2003 for hearing.

K.V. Prahaladan
Member

mb 24/10/03

Mr. B. C. Patraik, learned Counsel appearing for the respondents, says that he has been away for 3 weeks for producing some records. He has been away for 3 weeks for producing some records.

Member

17.11.03. 170

Case is ready for hearing.

by

O.A.397/2002

Office Note	Date	Tribunal's Order
	17.11.2003	<p>Present: The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman The Hon'ble Shri S.K.Naik Administrative Member.</p> <p>Adjourned. List the case on 19.11.2003 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	19.11.2003	<p>Present : The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman. The Hon'ble Sri S.K. Naik, Administrative Member.</p> <p>Mr. B. Choudhury, learned counsel submits that Mr. G.K. Bhatta- charjee, learned Sr. counsel for the applicant, ^{has} suffered ^a bereavement in the family. Mr. B.G. Pathak, learned Addl. G.G.S.C. for the respondents.</p> <p>List on 5.12.2003 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	23.12.2003	<p>Present: Hon'ble Mr Justice B. Panigrahi, Vice-Chairman Hon'ble Mr K.V. Prahaladan, Administrative Member.</p> <p>On the prayer of Mr S. Sarma for Mr B.C. Pathak, learned counsel for the respondents, the matter is adjourned. Let it be listed before the next available Division Bench.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

The case is ready
for hearing.

[Signature]
22.12.03.

nkm

mb

nkm

Office Note	Date	Tribunal's Order
	21.1.2004	<p>Present: Hon'ble Shri Bharat Bhusan, Member (J)</p> <p>Hon'ble Shri K.V. Prahladan, Member (A).</p> <p>Mr. G.K. Bhattacharyya, learned counsel for the applicant is present. It has been informed that the mother of learned Addl. C.G.S.C. is seriously ill. ^{So}Adjourned. List the case for hearing on 19.2.2004.</p> <p><i>K.V. Prahladan</i> Member (A)</p> <p><i>[Signature]</i> Member (J)</p>
	25.2.2004	<p>Present : The Hon'ble Sri Shanker Raju, Judicial Member.</p> <p>The Hon'ble Sri K.V. Prahladan, Administrative Member.</p> <p>Heard learned counsel for the parties.</p> <p>The O.A. is partly allowed for the reasons passed in separate sheets. No order as to costs.</p> <p><i>K.V. Prahladan</i> Member (A)</p> <p><i>[Signature]</i> Member (J)</p>

nkm

mb pg

16.3.04

Copy of the order has been sent to the D/Sec. for issuing the same to the applicant as well as to the Addl. C.G.S.C. for the Regd. est.

Revised
Boefanad
16/3/04

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 1111 397 of 2002.

DATE OF DECISION 25.2.2004.

Smt. Parbati Devi

.....APPLICANT(S).

Sri G.K. Bhattacharjya.

.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India & Ors.

.....RESPONDENT(S)

Sri B.C. Pathak, Addl. C.G.S.C.

.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. SHANKER RAJU, JUDICIAL MEMBER.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ? ☒ Yes
2. To be referred to the Reporter or not? ☒ Yes
3. Whether their Lordships wish to see the fair copy of the Judgment ? ☒ Yes
4. Whether the judgment is to be circulated to the other Benches ?
Judgment delivered by Hon'ble Member (J). ☒ Yes

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 397 of 2002.

Date of Order : This the 25th Day of February, 2004.

The Hon'ble Sri Shanker Raju, Judicial Member.

The Hon'ble Sri K.V. Prahlan, Administrative Member.

Smt parbati Devi,
Wife of Late At Bahadur,
C/o Amar Bahadur Chetry,
Ward No. 4 Mariani,
P.O. Mariani,
Dist. Jorhat, Assam. . . . Applicant

By Advocate Sri G.K. Bhattacharyya.

- Versus -

1. Union of India,
represented by the General Manager,
N.F. Railway, Maligaon,
Guwahati.
2. Divisional Railway Manager(R)
N.F. Railway, Tinsukia,
Dist. Tinsukia.
3. Divisional Railway Manager(P),
N.F. Railway, Tinsukia,
Dist. Tinsukia.
4. Divisional Engineer,
N.F. Railway, Tinsukia,
Dist. Tinsukia . . . Respondents.

By Advocate Sri B.C. Pathak, Railway standing counsel.

ORDER (ORAL)

SHANKER RAJU, JUDICIAL MEMBER,

The applicant, a widow of deceased railway employee impugned the order of removal dated 5.12.97 and also the appellate order dated 31.7.2002 and also sought for a compassionate appointment.

2. The deceased husband of the applicant was working as Gangman . On account of his serious illness due to a psychiatric problem he had undergone treatment in Assam Area Project Hospital and was admitted to the hospital. As the applicant remained absent from duty since 6.6.95

charge sheet dated 14.8.96 was served upon him and in lieu of his acknowledgement his LTI was obtained on 21.3.96 which is disputed.

3. As the postal communication received back undelivered as the deceased was not found, an ex parte proceeding was initiated ~~the~~ and the applicant was found guilty. The enquiry report could not be served upon the applicant due to non availability and therefore a major penalty of removal was inflicted upon the applicant who died on 3.7.2000. Thereafter the wife of the applicant preferred an appeal to the respondents but the said appeal was turned down on 31.7.2002 giving rise to the present O.A.

4. In their additional written statement the respondents counsel took the preliminary objection under Rule 10 of the C.A.T.(Procedure) Rules 1987 contenting that quashing of removal and prayer for compassionate appointment are multiple reliefs which cannot be agitated in this O.A.

5. Moreover, referring to the decision of the apex Court in Sudha Srivastav vs. C.A.G. 1996(1) SCC 63 it is stated that right of the applicant to sue and to prefer an appeal is abated with the death of the railway employee as such applicant is not authorised to file an application under Section 19 of the Act as she is not a aggrieved party.

6. On the preliminary objection ~~xx~~ ~~xx~~ unless the removal is set aside, which is an impediment for consideration for compassionate appointment applicant's relief cannot be accepted as such the relief prayed are not multiple but consequential. Accordingly Rule 10 is not attracted.

7. Insofar as the status of the applicant is concerned a Full Bench of the Tribunal consisting of 3 judges in Mrs Chandrakala Pradhan vs. U.O.I, where the question was whether a legal heir has a right to sue on death of the

Government employee, a case where the deceased while in service has been proceeded against for unauthorised absence and was dismissed. He could not prefer appeal and died. Widow of the deceased filed the appeal. By an order. passed in O.A.501/94 dated 22.11.02 taking cognizance of another Full Bench decision in Vidhata vs. U.O.I, 1998(3) ATC 568 and having regard to the decision of the apex Court in Rameswar Manghi vs. S.Colliery, 1994 (1) SCC 292 and also the decision of the apex Court in Sudha Srivastav's case the Full Bench disagreed with the earlier Full Bench decision in Vidhata case. A larger Bench of five Judges in O.A.501/94 decided on 23.11.2001 ruled that right to sue under service jurisprudence devolved upon the legal heir after the death of Government employee. Moreover, in a case of removal the consequential benefits including compassionate appointment, a right which can be sued by the legal heir. In this view of the matter we overruled the objection of the respondents and entertain the O.A. on the merit.

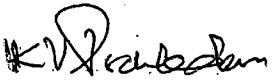
8. As per settled principle of law under B.C.Chaturvedi vs. U.O.I, J.T.1995(8) SC 65 in the matter of proportionality of the applicant it is incumbent upon the appellate authority to go into proportionality as per rule 22 of the Railway servant Discipline & Appeal Rules 1968. In the event ^u conscience of the Court is shocked ^{he} the matter can be interferred in penalty.

9. We have doubt about the legal service affected upon the applicant of the disciplinary proceeding at the relevant time on 23.10.96. ^u As per the medical record the deceased was undergoing treatment for his mental illness. However, assuming the memorandum of enquiry was

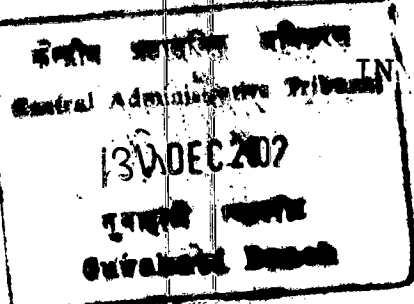
served on 14.8.96 even before the ex parte proceeding it ¹² has to be established as per rule 9 of the Rules for a proper and valid legal service is affected upon the Railway servant. We find that the service through post was returned undelivered with the remarks that the addressee not found, this is not a valid service as per the decision of the apex Court in D.S. Karikar Vs. U.O.I. 1998 (6) JT 1. Moreover, we find that under the rules of discipline of Railway before a final decision is taken the copy of the enquiry should be served upon the delinquent employee. We find from the respondents that the report was forwarded vide letter dated 19.8.87 to the applicant whereas the communication states that the applicant has not been found on 16.8.97 whereas the respondents had already taken a decision to remove the applicant from service by an order dated 5.12.1997. It appears that the service was affected later on whereas the order has been passed earlier. In the light of the Constitution Bench decision of the Apex Court in ECIL Vs. Karunakaran, 1993 (6) JT 1 non supply of enquiry report has certainly prejudiced the applicant. We also found that the appellate authority while rejecting the appeal preferred by the widow that the case of the applicant has not at all considered and the proportionality confirmed penalty of removal.

10. In this view of the matter we partly allow this application setting aside the appellate order dated 31.7.2002 and the matter is remanded back to the respondents to consider the appeal a fresh having regard to the proportionality and the illegality committed in the disciplinary proceeding as reflected in our observation. The appellate authority shall take a final decision within 3 months from the date of receipt of the copy of the order. If the penalty is set aside

the claim of the applicant for compassionate appointment
be accordingly considered in the light of indigency and
her financial constraint. No costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(SHANKER RAJU)
JUDICIAL MEMBER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

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

O.A. NO. 397 OF 2002

Smti Parbati Devi

... Applicant

-Vs-

Union of India and others

... Respondents

I N D E X

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Filed by

Bikram Choudhury.

Advocate

(PARBATI DEVI)
15
CERTI taken by B. K. Choudhary

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

(An application under section 19 of the
Administrative tribunal Act, 1985)

O.A NO..... of 2002

Smt. Parbati Devi,
W/O Late At Bahadur,
Presently residing at,
C/O Amar Bahadur Chetry,
Ward No.4, Mariani,
P.O. Mariani,
Dist: Jorhat (Assam)

.....Applicant.

-Vs-

1. Union of India
Represented by the General
Manager, N.F. Railway,
Maligaon, Guwahati.
2. Divisional Railway Manager,
N.F. Railway, Tinsukia,
Dist: Tinsukia.
3. Divisional Railway Manager (P),
N.F. Railway, Tinsukia,
Dist: Tinsukia.

4. Divisional Engineer,
N.F. Railway, Tinsukia,
Dist: Tinsukia.

.....Respondents

1. PARTICULAR OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE.

1. Letter No. 26-E/dt. 5.12.97 issued by the
Asst. Engineer, N.F. Railway, Mariani
removing the applicant from service in an ex-
parte enquiry.
2. Letter NO. 562-E/Pt.XI dt. 31.07.2002 issued
by the Respondent No. 3 rejecting the appeal
of the applicant for revocation of major
penalty of her late husband.
3. Illegal and arbitrary action of the
authorities in not appointing the applicant
on compassionate ground after due process of
all formalities without assigning any valid
reasons.

2. JURISDICTION OF THE TRIBUNAL:

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

JARBOTI DEVI

(R.F.I taken by Sitanam Choudhary)

3. LIMITATION :

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administration Tribunal Act, 1985.

4. FACTS OF THE CASE :

1. That the applicant begs to state that her husband late At. Bahadur was working as a Gangman in the office of Permanent Way Inspector, Farkating Division under the N. F. Railway since 1984. While working as such suddenly on 5.6.95 he fell sick. On the very next day i.e 6.6.95 the applicant with the help of neighbours admitted him in the Civil Hospital, Mariani and the doctor diagnosed him as suffering from various mental disease and tuberculosis and asked her to take him to Assam Medical College, Dibrugarh for further treatment.

2. That the applicant begs to state that she is the legal heir and that her late husband was the only bread earner of the family comprising of herself and two minor sons. The applicant further states that she is an illiterate person and with no help from any other person or source of income she was in complete distress and was compelled to continue treatment of her husband in Civil Hospital.

PARBODI DEVI

RT-1 taken by Bikram Choudhury.

3. That the applicant begs to state that after prolonged treatment of her husband the doctor advised her to take her husband back home and accordingly applicant's husband was released from the hospital on 3.7.2000 but suddenly on 5.7.2000 the applicant's husband expired leaving the family in a destitute condition.

Copies of the death certificate and doctor's certificate are annexed herewith and marked as ANNEXURE-I (Series).

4. That, as stated, above the applicant is an uneducated person and as such she was ignorant about the rules and regulations and as there was no assistance from any other persons she could not send any intimation to the authorities about the sickness of her husband and moreover she being the only adult person in the family she was wholly engaged in taking care of her husband.

5. That the applicant begs to state that after the death of her husband, the applicant and her two minor sons are living in a destitute condition, wholly depending on other people. As such the applicant being the only eligible person in the family filed an application stating the above facts before the Respondent No. 2 for

PARBATI DEVI

R.T.I. taken by Sivanam Chundhury.

compassionate appointment in Group D category on 4.6.2001.

A copy of the application dated 4.6.2001 is annexed herewith and marked as Annexure -II.

6. That the applicant was surprised when she received letter no. E/236/Misc./TSK (WB) dt. 25.6.2001 issued by the Respondent No.3 informing the applicant that the Final Settlement money of her Late husband At. Bahadur who was removed from service has been sanctioned. The applicant on receipt of the letter immediately submitted a representation before the Respondent No. 3 with the prayer for keeping the sanction order of final settlement money in abeyance till the finalisation of her late husband as to when he was removed from service as neither the applicant nor her late husband received any letter about any disciplinary proceeding contemplated against him.

A copy of the representation dt. 25.6.2001 is annexed herewith and marked as Annexure -III.

7. That in pursuance to the application made by the applicant the office of the Respondent No.3 issued letter No. E/105/MISC./TSK (W)/APTT dt.

PARBATI DEVI

R.T.I. Taken by Bikram Choudhary

6.7.2001 to the applicant directing her to appear before the Respondent No. 2 for interview on 24.7.01 and verification of original documents for compassionate ground appointment and further asked her to file her application in the prescribed form, if not submitted earlier. Accordingly, the applicant submitted her application duly certified by the in-charge in prescribed form and appeared in the interview on the specified date.

Copy of the letter dated 6.7.2001 and application in prescribed form are annexed herewith and marked as Annexure-IV and V respectively.

8. That the applicant begs to state. She was regularly making enquiries with office of the Respondent No. 2 and other authorities about her appointment but she was given vague and evasive replies. Ultimately she was vaguely informed that her husband was dismissed from service and that she could not be appointed. After repeated request before the authorities she has obtained a Photostat copy of the order dt. 5.12.97 imposing the penalty of removed from service to the applicant's husband on September 2001 from the Head Clerk (Establishment) of Assistant Engineer Office, Mariani. Neither the applicant nor her late husband

PARBOTI DEVI

R.T.I. taken by Bikram Choudhary.

had received a copy of the said order. From the order it will be opponent that the letter was sent to Nepal Address of Lt. Al Bahadur.

A copy of the order dt. 5.12.97 is annexed herewith and marked as Annexure -VI.

9. That on 15.9.2001 the applicant submitted an appeal before the Respondent No.4 stating the above facts with the prayer to reconsider the order dt. 5.12.97 imposing the penalty of removal from service to her husband by regularising the service period of her husband by revoking the order dt. 5.12.97 so that the poor family may be saved from ruin.

A copy of the appeal dt. 15.09.01 is annexed herewith and marked as Annexure -VII.

10. That the applicant begs to state that since there was no response whatsoever to her appeal dt.15.09.01 (Annexure-VII) the applicant again on 1.10.01 submitted an appeal before the Respondent No. 2 stating the above facts with the prayer to revoke the penalty of removal from service of her husband and to regularise the service period of her husband taking into consideration the serious diseases that her husband suffered and later on succumbed to the diseases. It

PARBOTE DEVI

R.T.I. taken by Sikkam Choudhury.

will be relevant to mention here that to the best of her knowledge, no letter/ correspondence with regard to any disciplinary proceeding was ever received by her late husband.

A copy of the appeal dt. 1.10.01 is annexed herewith and marked as Annexure - VIII.

11. That the applicant states that thereafter she did not receive any response from the authorities for a longtime. Suddenly on 2.8.2002 the applicant received the impugned order no 562-E/Pt.XI dt. 31.07.2002 from the office of Respondent No. 3 rejecting the applicant's appeal dt. 1.10.2002 without assigning any reason.

A copy of the impugned order dt.31.07.02 is annexed herewith and marked as Annexure -IX.

12. That after receipt of the impugned order dt. 31.07.2002 the applicant again on 12.09.02 submitted another appeal before the Senior Divisional Engineer, Tinsukia and Respondent NO. 3 with the prayer to revoke the notice-imposing penalty of removal of her late husband who died due to various diseases on 5.7.2000.

(PARBOTTI DEVI)

R.T.I. taken by Bikram Choudhury

2

A copy of the re-appeal dt.
12.09.02 is annexed herewith
and marked as Annexure -X.

13. That, the applicant begs to state that though all formalities for her compassionate appointment had been completed a longtime back but till date nothing has been done to remove her distress by appointing.

14. That the applicant has exhausted all her resources while pursuing her late husband's case and her case for compassionate appointment and since a great injustice has been done to the applicant and that to in a most illegal and arbitrary manner and no useful purpose would be served by waiting any longer and as such she is approaching this Hon'ble Tribunal for adequate and just relief.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

I. For that the impugned action of the respondents in not considering the applicant's case is highly illegal, arbitrary and discriminatory and as such this is a fit case where this Hon'ble Tribunal will exercise jurisdiction and grant adequate and just relief.

~~PARBATI DEVI~~

R.T.I. taken by Bikram Choudhary.

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II. For that compassionate appointment scheme has been made to give support to the distress family, whose only source of livelihood is taken away due to premature death of the only bread earner of the family and as such the action of the authorities in vaguely replying that she could not appointed since her late husband was removed from service after completion of all due process of compassionate appointment is bad in law and is liable to set aside.

III. For that it will be apparent from the order of penalty dt. 5.12.97 (Annexure-VI) that it is not specific as to how and where the charge memorandum and enquiry report delivered to applicant's late husband and as such the order of penalty of removal from service is bad in law being in violation of Railway Board circular No. E (D & A) 83 RG 6-47 dt. 30.8.84, W.R. 295, NR 8602 which states about the procedure to be followed for serving charge memorandum in case of unauthorized absent and as such the same is liable to be quashed and set aside.

IV. For that, at no point of time the applicant nor her late husband was ever communicated

PARBATI DEVI



A.T.I. taken Bikram Choudhury.

✓

any letter/correspondence with regard to any disciplinary proceeding against the applicant's husband and as such the action of the authorities in imposing the penalty of removal from service is harsh, illegal and arbitrary and is liable to be set aside.

V. For that the action of the Respondent No.3 in rejecting the appeal of the applicant from revocation of major penalty of her late husband without making a fair assessment of the facts of the case and that too in a perfunctory manner is bad in law and is liable to be set aside.

VI. For that, in any view of the matter the impugned action/orders of the Respondent authorities is bad in law and is liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant has got no other remedy.

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

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or

FARBOYI DEVI

R-7-1. taken by Bikhram Choudhury
Advocate

any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit this application, call for the entire records of the case, ask the respondents to show cause as to why the impugned order dated 5.12.97 (Annexure - VI) and order dt. 31.07.02 (Annexure-IX) should not be set aside and quashed and after perusing the causes shown, if any and hearing the parties set aside the impugned order dt. 5.12.97 (Annexure-VI) and order dt 31.07.02 (Annexure-IX) and direct the authorities to regularized the service period of the applicant's husband and thereafter complete the process of compassionate appointment of the applicant which was initiated on

FARBOTI DEVI

R.T.I. Taken by Bihann Choudhury.
Adv.

6.7.2001 (Annexure-IV) asking the applicant to appear in interview and/or pass any other order/orders as Your Lordships may deem fit and proper so as to grant adequate relief to the applicant.

And for this act of kindness, the applicant as in duty bound shall every pray.

9. INTERIM ORDER IF ANY PRAYED FOR :

Does not arise.

10. DOES NOT ARISE:

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE.

- (i) I.P.O No. : 7G606925
- (ii) Date. : 12-12-02.
- (iii) Issued by Guwahati Post Office.
- (iv) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As stated in the INDEX

PARBOTTI DEVO

R.T.I. taken by Birenam Choudhury

P

VERIFICATION

I, Smti Parbati Devi, Wife of Late At. Bahadur, aged about 33 years, Resident at C/o Amar Bahadur Chetry, Ward No. 4, Mariani, P.O. Mariani, Dist- Jorhat (Assam) do hereby verify that the statements made in Paragraphs No. 1, 2, 4, 5, 6, 9, 10, 12, 13 and 14 are true to my personal knowledge and the statements made in paragraphs No. 3, 7, 8 and 11 are believe to be true on legal advice and that I have not suppressed any material fact.

And I sign this verification on this 13th day of December 2002 at Guwahati.

Place: GUWAHATI

(PARBATI DEVI)

Date: 13-12-02.

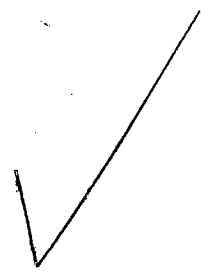
(R.T-1) Taken by Bikram Choudhury
Adv.
SIGNATURE OF THE APPLICANT



ANNEXURE-I (series)

Sl. No. 0066705

GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেৱা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্ৰমাণ পত্ৰ)



ISSUED UNDER SECTION 12/17 of the Registration of Births and Deaths Act, 1969.
(জন্ম আৰু মৃত্যুৰ পঞ্জীয়ন আইন ১৯৬৯ ৰ ১২/১৭ অংশত লিপিবদ্ধ)

This is to Certify that the following information has been taken from the original record of Death which is in the register for.....*Death*.....
Registration unit of *Bokachan* of District *OT* of the State of Assam.

ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য অসম ৰাজ্যৰ----- জিলাৰ----- থানা/পৌৰসভাৰ----- মৌজাৰ অন্তৰ্গত----- পঞ্জীয়ন গোটেৰ পঞ্জীৰ মূল অভিলেখৰ পৰা সংগৃহীত কৰা হৈছে।

Name/নাম : *Late M. B. Bhabha*

Sex/লিঙ্গ : *Male*

Date of Death/মৃত্যুৰ তাৰিখ : *05/11/2020*

Place of Death/মৃত্যুৰ স্থান : *Home, Ward No. 1, OT*

Registration No./পঞ্জীয়ন নং : *305*

Date of Registration/পঞ্জীয়নৰ তাৰিখ : *02/12/2020*

Signature of issuing authority/জাৰী কৰা কৰ্তৃপক্ষৰ চহী

Designation/পদবী

Date/তাৰিখ

Stamp Sig. of Chief Registrar/মুখ্য পঞ্জীয়কৰ চহীৰ ঠাম্প

No disclosure shall be made of particulars regarding the cause of death as entered in the Register. See proviso to Section 17 (1)

Attested by
Shrawan
Advocate

ASSAM AREA PROJECT - IPP IX
HEALTH & FAMILY WELFARE DEPTT., ASSAM

Advice slip for patient

O.P.D. Regd. No. 215 Date
Name Age/Sex Male
Diagnosis

This is to Certify that
At Bahadur S/o Late Karua
Bahadur. M. B. Parkating was
suffering from Hypertension, heart
& depressive psychosis and Melancholia
He was under treatment from
06-06-95 to 03-7-2000
in an acute depression
and was followed by medicine
to be continued. Chakrapany,
Bomley.

Attest

Dr. S. K. Saha

সহ. অঞ্চল স্বাস্থ্য ইঞ্জিনিয়ার (চ বা পি)

Asst. Div. Mech. Engrg. Railway N.F.

Signature of Officer
03/7/2000
OFFICE
03/7/2000
OFFICE

সহ. অঞ্চল স্বাস্থ্য ইঞ্জিনিয়ার (চ বা পি)
সহ. অঞ্চল স্বাস্থ্য ইঞ্জিনিয়ার (চ বা পি)
সহ. অঞ্চল স্বাস্থ্য ইঞ্জিনিয়ার (চ বা পি)
সহ. অঞ্চল স্বাস্থ্য ইঞ্জিনিয়ার (চ বা পি)

- 18 -

ANNEXURE-II

No. P.D./Comp.-Ground/I/2000/2001

Dated:- 4-06-2001

To,
The Hon'ble
Divisional Railway Manager
N. F. Railway / Tinsukia

C/o.DEN/I, DRM(P) & APO/II
C/- AEN/MAN & TSK and SSE(P.WAY)FKG.

Sub:- Prayer for the job on Compassionate in Group-'D' category
against my deceased husband Late At. Bahadur Ex. Gangman
under SSE(P.WAY)FKG.

Respected Sir,

With profound respect and humble submission, I, Smt. Parbati Devi, wife of Late At. Bahadur, worked as gangman under SSE(P.WAY)FKG, residing at Mariani- ward no. 4, p.o. Mariani, Dist. Jorhat(Assam) would like to pray the following few lines for kind consideration and sympathetic order please.

That Sir, my husband At. Bahadur was working under SSE(P.WAY)FKG as gangman since long 10/11 years with entire satisfaction to superior.

That Sir, it is unfortunate to say that due to sudden attack by various with mental disturbance, my husband was expired on 05-07-2000 during the treatment continued for.

That Sir, I am facing trouble alongwith 02 minor children due to death of my husband.

That Sir, I am helpless lady, ignorred about the rule of the administration as well as F.S. is not yet drawn.

That Sir, no any Rly. job on Compassionate ground is yet offered by giving decision in ~~xxxxxx~~ this regard.

Therefore, your honour is requested to kindly look into the matter and arrange to consider by giving due consideration for the job on Compassionate ground in group- "D" category and oblige thereby.

(Necessary certificate will be produced on requirement please).

Yours faithfully,

Encl
(one)

R.T.I. of (Parbati Devi)

Wido wife of
Late At. Bahadur
Ex.gangman under SSE(P.W.)FKG
Now residing at Mariani ward-
no. 4, P.O. Mariani
Dist. Jorhat (Assam)



Received
on 05-6-01

Attested by
Advocate

Received on 5/6/01
DRM (P)'s Office
N.F. Rly. / Tinsukia

RECEIVED
Office of the Divisional Manager
Tinsukia

To,

DAO/TSK
N.F.Rly.

C/O: DRM(P)TSK

Sub:- Prayer for-

- (1) Not to pass the F.S. at present untill and unless the case of my deceased husband Late At Bahadur, Ex. Gangman under PWI/FKG as prayed for.

Ref:- DRM(P)TSK's L/no. E/236/Misc./TSK(WB)dt:25-6-2001.

Respected Sir,

With profound respect and humble submission, I, Smt. Parbati Devi, widow wife of Late At Bahadur, Ex. gangman under PWI/FKG would like to lay down the following lines for your kind consideration and sympathetic order please.

1. That, Sir, my deceased husband Late At. Bahadur was working as gangman since long years i.e. 01-1-1984 under PWI/FKG with the entire satisfaction to his superiors.
2. That Sir, due to suffering from serious deases, my husband compelted to under go treatment since 06-6-95 in civil hospital for his curedness but unfortunately due to ill luck could not save his life and expired on 05-7-2000.
3. That Sir, during that peried no any intimation was received by me or my deceased husband while the treatment was continued but he (deceased husband) removed from Rly. service after 2 years 6 months whose period does not conceed beyond 05 years.
4. That Sir, it is also sorry to say that while my deceased husband removed unanimously, the FS case was not finalised in that peried as aliving in this world, if so he (deceased husband) might had to be capabled to save the life by expanding more good treatment.

Due to non finalising the F.S. since 5-12-1997 the case was in dark to be understeod the matter by illiterate widow applican.

That Sir, after the prelonged treatment of my deceased husband had expired on 5-7-2000 which to be regularised for onward decision in favour of the applicant.

It is fact that I am quitely ignorant about the rules and regulations using illiteracy.

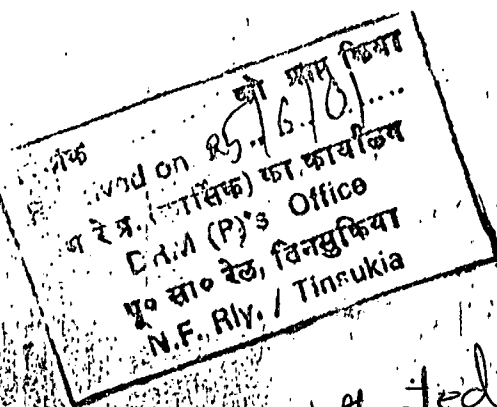
In this connection, certificates against the treatment of my deceased husband will be submitted very soon for onward regularisation of the issue.

Therefore, pray to kindly arrange not to be sanctioned at present the F.S. money till finalisation of the case and oblige thereby.

Yours faithfully,

(Smt. Parbati Devi)

W/O: Late At. Bahadur
Ex. gangman under PWI / FKG
now residing at Mariani Ward-no.4
P.O. Mariani Dist. Jorhat (Assam).



Attested by
[Signature]

- 20 -

ANNEXURE- IV
64

REGISTERED WITH A/D.

N. F. RAILWAY.

No. E/105/MISC TSK(N)/APPT.

Office of the
Divl. Rm. Manager (P)/TSK.
Dt. 06/07/2007



To

Shri Parbati Devi

W/o. At Bahadur

Ex. Gangman, SSE (P.Way)/FRB

Pravara Ward No-4

P.O. Mariani

Dist. Jalgaon

Sub:- Interview with DRM and verification of original documents for Compassionate Ground appointment.

You are hereby directed to attend the DRM/P/TSK's office on 24-07-2007 for interview and verification of original documents/certificates before DRM/TSK to be held at 11.00 Hrs. alongwith your father/Mother with the following documents/certificates. You should report to LTI /I of Welfare Bureau/Tinsukia at 10.00 Hrs. on the date mentioned above without fail.

1. Application in prescribed proforma, if not submitted earlier.
2. All Educational certificates and Marksheet of School/College in original.
3. Caste certificate in original issued by the recognised authority.
4. Declaration regarding not belonging to SC/ST.
5. Death certificate in original.

6. Recent Passport size (Black & White) attested photograph ³ (three) copies by the Principal of School/College last attended and 3 (three) copy by Branch Officer under whom the ex-employee was working. Photograph should be attested in the following inscription bearing signature of the candidate on the reverse top of the photograph.

Signature above and photograph on the reverse of Shri _____
Son of Shri/Late _____
Ex. _____ under _____
authenticating.

for Divisional Manager (P)
N.F. Railway, Tinsukia.

Copy to:- DRN/1/TSK

please attend the interview on the date and time mentioned above in DRM's chamber.

Attested by
Bhaskar
M

for Divl. Rm. Manager (P)
N.F. Railway, Tinsukia.

- 29 ANNEXURE - V



TO
The Divisional Railway Manager(P),
N. F. Railway/ Tinsukia.

(Thro : (Proper Channel)

Sub :- Prayer for appointment of my son/daughter/self
in group 'C'/'D' post of compassionate Ground.

Sir,

With due respect and humble submission, I beg to request
your honour to kindly provide a job to me/ my son/ my daughter
Shri/Miss: Parbati Devi
in any group 'C' or 'D' Post in on compassionate grounds.

In this connection, I beg to furnish the requisite
particulars as under :-

PARTICULARS OF THE DECEASED EMPLOYEE/MEDICALLY INCAPACITATED
EMPLOYEE/MEDICALLY DECATEGORYSED/VOLUNTARILY RETIRED STAFF.

1. Name : At Bahadur 2. Designation : Ex. Gangman
3. Station/Office : Under SSE (P.Way) Furchaling 4. Department : Engg.
5. Date of circumstances under which he died/Medically incapacitated : Expired on 5-7-2000 during treatment
6. Whether died/invalidated while in service or after retirement :
7. Other reason for claim : NIL
8. FAMILY PARTICULARS.

Sl. NO.	N A M E	Relationship with the emp- -lyee.	Date of birth.	Educational Q- ualifica- tion.	Wheth- er Em- -ploy- ed or not.
---------	---------	--------------------------------------	----------------	--------------------------------------	---

1. Smt. Parbati Devi Wife 20.3.69 NIL NO.
2. Sri Krishna Bahadur Son (Minor) 1.11.87 - -
3. Sri Kishan Bahadur Son (Minor) 18.10.90 - -

9. PARTICULARS OF THE CANDIDATE :

- 1) Name (in Capital letters) :- SMT. PARBATI DEVI
- ii) Educational qualification :- NIL
 - a) Academical : NIL
 - b) Others :

(to be supported by attaching true copy
of certificates and mark sheets.)

Attested by
Bhadracharya
Adv.

0000000070

- iii) Relationship with the deceased/
medically incapacitated employee : *Wife*
- iv) Date of birth : *20.3.69*
- v) Whether any member of the family is
employed wither in a profession of
agriculture through he/she may not
be employee in salaried post : *NIL*
- vi) Whether any members is employed on
compassionate ground : *NIL*
- OBC.
- vii) Whether belong to SC/ ST (if yes,
then true copy of certificate to
be attached).
- viii) Permanent Address for communication:

*Mariam Ward no- 4
PO - Mariam
Dist - Jorhat (Assam)*

In support of my claim, I am enclosing the following :-

1. True copy of Death certificate.
2. Medically Incapaciation certificate.
3. Other documents.

Under the above, I would request you to kindly register
the name of the above candidate and my name in your office and
arrange to provide me a suitable job at your earliest, I am not
concealing anything.

Date: - *20.07.01*

Yours faithfully,



*R.T. of
Smt. Paribali Devi*

Full Signature.

Relationship & Name of deceased medically
incapaciated employee.

Certified that the statement given as above by the applicant
is correct to the best of my knowledge and belief.

*Consolidated
Glad*

*23-7-01
Divisional Engineer-1
Cuttack, Bhubaneswar
R. P. Biju, Tinsukia*

20.08.01
Asst. Divisional Engineer
Bhubaneswar
R. P. Biju, Tinsukia

20.7.2001
Signature of the in-charge where
employee was working with rubber
stamp.

Office of the
Assistant Engineer,
N.F. Railway, Mariani. 37
Dated. 5.12.97.

NO. 26-E/
TO,

Shri At-Bahadur, Gangman.
S/O:- Shri Karna Bahadur.
Vill:- Mayum Shiohapani.
P.O. Sanga-Dist. Sanga (Nepal)

Subj- Notice of Imposition of penalty.
Ref:- SF-5 Memorandum No. 26-E/ dated. 14.8.96.

Shri At-Bahadur S/O:- Shri Karna Bahadur gangman under Sr. SM(P-Way) PKG is hereby informed that he was served with aforesaid memorandum of charges for his unauthorized absent from duty since 6.6.95. The said SF-5 was received by you personally on 3.10.96. But you neither attended Office of undersigned nor submitted written statement of defence against said memorandum even after issued of two number of reminder by undersigned sent to your last known postal address.

Finally DAR enquiry was fixed on 11.09.97 in undersigned chamber vide this Office letter No. 26-E/ dated. 19.8.97 and one copy of it also displayed on notice Board of the Office of Sr. SM(P-Way) PKG. But you neither attended enquiry nor submitted written statement of defence and therefore expertee enquiry is resorted. Enquiry report sent to you on 22.09.97 by post and your last known postal address as well as one copy of it displayed on notice board of Sr. SM(P-Way) PKG for your representation if any within 15 days of receipt of the same. But till date there is no response from your end.

From above it is clear that you has caused damage to healthy disciplined works of Railway by absnting yourself from Railway duty without any intimation as well as not carrying to submit your written statement of defence against the allegation brought against you.

Hence Shri At-bahadur while working as gangman under Sr. SM(P-Way) PKG has committed an act which shows his lack of devotion to-wards duty and thus violation of article 3.1(11) of Railway service conduct rule 1966.

So the following order is passed.

" Shri At-Bahadur, S/O:- Shri Karna Bahadur, gangman under Sr. SM(P-Way) PKG is REMOVED FROM SERVICE"

Appeal lies with DEN/TSK.

Assistant Engineer,
N.F. Railway, Mariani.
(D.A.)

- Copy to:- (1) DEN(P)/TSK.
(2) Sr. DEN/TSK. For kind intimation.
(3) DEN/TSK.
(4) Sr. SM(P-Way) PKG with two copy for intimation and display one copy on Notice Board and return another copy to undersigned duly signed by Railway staff as a witness.

[Signature]
Assistant Engineer,
N.F. Railway, Mariani.
(D.A.)

Attested by
[Signature]
Advocate

The Honble ✓
DEN/1/T&K

Through Proper channel

Sub:- Prayer to revoke the MIP imposed by AEN/IXN as to regularise the service period against my deceased husband Late At Bahadur Ex.- Gangman under PWI/FMG due to become disability and died during treatment on mental diseases while in service.

Ref:- AEN/IXN's L/no. 26-E dt. 5/12/97

Respected Sir,

With profound respect and humble submission I, Smt. Parbati Devi, widow wife of Late At Bahadur, Ex. Gangman under PWI/FMG, would like to lay down the following few lines for your kind consideration and sympathetic order please.

1. That Sir, my deceased husband Late At Bahadur was working as Gangman since 01-1-1984 under PWI/FMG with entire satisfactions to his superiors.

2. That Sir, it was fact that due to unfortunate my husband (Late At Bahadur) was suddenly attacked with mental diseases which affected badly after rendering 10 (ten) years 5 months and 06 days as well as caused great harm in the life of family members.

3. That Sir, due to suffering from serious diseases, my husband compelled to under go treatment since 06-6-1995 as shifted with help of neighbours into State Govt. Assam Area Project IPP-IX, Health and family W.D. (Assam) linking with the advice of Assam Medical College/ Dibrugarh for onward treatment for his cureness.

4. That Sir, during that period no any intimation was received on behalf of my patient husband while the treatment was continued to him (At Bahadur).

5. That Sir, it was fact, during that period of mentally unconscious condition of my husband, intimation also could not be sent/given regarding the sick on mental treatment to the administration while it continued for.

6. That Sir, I, being alone in the family, was completely engaged with the patient husband during that period of treatment as assistance with the advice of doctor.

7. That Sir, it was quite ignorant in respect of giving/taking help of the Rly. administration on behalf of my husband in that time to whom no any guidance/verification was made as suffered badly in mental diseases.

8. That Sir, during the course of mental diseases of my husband, what type of ill circumstances was created as well as involved in that time which beyond expressed the distress faced with 02 minor children.

9. That Sir, I also begged for help to several persons on behalf of the patient husband to maintain expenditure of treatment during that period which was very pathetic below the wife of Rly. employee.

10. That Sir, I was also not known regarding the processes of any disciplinary action against my patient husband during that period as well as it was also not in a position to reply any reference during that course/period of un-consciousness/ mental disbalance etc.

11. That Sir, due to not receiving any intimation/letter by me on behalf of my patient husband on perfect by intimation could not be given/sent by me regarding the sick husband during that period.

Contd:-2



12. That Sir, Neither any representative of Rly. departmentally attended to see or enquiry or verification the matter/situation of my patient husband during the course of treatment in that time/period nor any intimation given/sent to me on behalf of my patient husband.

13. That Sir, I, being illiterate lady, am quite ignorant about the rules and regulation of the administration.

14. That Sir, since the resident on private gr. was situated at out side at the private location within FKG area due to non availability of Rly. Gr. as resided along with family /minor children, that the situation corresponding in this regard was not permitted due to engaged with the patient husband at the other place for the treatment of mental diseases during that period.

That Sir, there was no any other sources except Rly. service of my husband but due to unfortunate such type of incident occurred in the life of our family but such negligence was not done intentionally.

That Sir, due to unfortunate, my patient/victimised husband was released from the Civil Hospital which continued from 06-6-95 to 3-7-2000 as well as brought to the private resident/Mariani with the advice of Doctor, but suddenly expired on 5-7-2000 leaving 02 minor children which caused great distress in the family.

While it could be known from AEN/office/MXN, shocked which is also matter of great regret, that since my patient husband was undergone the treatment as victimised in mental disorder w.o. from 06-6-95, an order was passed for removal of service after expiry of 02(two) years and 06-months whose period did not exceed beyond 05 years vide AEN/MXN's letter no. 26-E dt. 5/12/97.

That Sir, if there was conducted any enquiry against my (patient) deceased husband in that time, then how could be attended the same during the course of mental disorder i.e. with unconscious condition which did not permit in that situation.

That Sir, if there was given any chance to appeal, no intimation was received by me on behalf of my patient husband, the appeal in this regard did not prefer/permit with mental diseases.

That Sir, since it was passed only 2(two) years and 06(six) months in the treatment of my victimised husband in mental diseases beyond a crossed 05 years, the reason for removing service within short period is not known to the poor family.

That Sir, after the expiry of my husband, the matter could be known for which the appeal is represented explaining all the fact of your kind goods self.

In this connection, 2 nos. appeal had already lodged along with relevant records for kind consideration the case to save the life of the poor family.

Under the above circumstances, your honour is prayed to kindly look into the matter and arrange to re-consider the same for its regularisation the service period by revoking the NIP against the deceased husband so that onward action/decision may please be initiated by giving due consideration so that the poor family may be saved from ruinness and oblige thereby.

Yours faithfully,

H.T.I. of (Smt. Parbati Devi)
W/O. Late At Bahadur Ex. gangran
under PWI/FKG now residing at Mariani
ward no. 4 P.O. Mariani Dist. Jorhat
(Assam)

ForWARDED with remarks
that the case has been removed from
service with this order dt. 5-12-97.

Asstt. Divisional Engineer

सहायक मंडल अभियन्ता

N. F. Rly. Mariani.

१. सी. रेल्वे, मरियानी

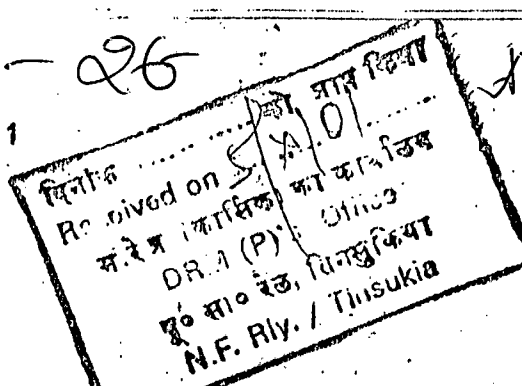
Enc
07 (Sevan)

Forwarded

10/9/2001

RECEIVED
10/9/2001
10/9/2001
10/9/2001

To,

Honble
DRM/Tsk

Dd. 01-10-2001

ANNEXURE - VIII

Through Proper channel

Sub:- Prayer to revoke the NIP imposed by ABN/MXN as to regularise the service period against my deceased husband Late At Bahadur Ex.- Gangran under PWI/FKG due to become disability and died during treatment on mental diseases while in service.

Ref:- ABN/MXN's L/no. 26-E dt. 5/12/97

Respected Sir,

With profound respect and humble submission I, Smt. Parbati Devi, widow wife of Late At Bahadur, Ex. Gangran under PWI/FKG, would like to lay down the following few lines for your kind consideration and sympathetic order please.

1. That Sir, my deceased husband Late At Bahadur was working as Gangran since 01-1-1984 under PWI/FKG with entire satisfaction to his superiors.

2. That Sir, it was fact that due to unfortunate my husband (Late At Bahadur) was suddenly attacked with mental diseases which affected badly after rendering 10 (ten) years 5 months and 06 days as well as caused great harm in the life of family members.

3. That Sir, due to suffering from serious diseases, my husband compelled to undergo treatment since 06-6-1995 as shifted with help of neighbours into State Govt. Assam Area Project IPP-IX, Health and family W.D. (Assam) linking with the advice of Assam Medical College/ Dibrugarh for onward treatment for his cureness.

4. That Sir, during that period no any intimation was received on behalf of my patient husband while the treatment was continued to him (At Bahadur).

5. That Sir, it was fact, during that period of mentally unconscious condition of my husband, intimation also could not be sent/given regarding the sick on mental treatment to the administration while it continued for.

6. That Sir, I, being alone in the family, was completely engaged with the patient husband during that period of treatment as assistance with the advice of Doctor.

7. That Sir, it was quite ignorant in respect of giving/taking help of the Rly. administration on behalf of my husband in that time to whom no any guidance/verification was made as suffered badly in mental diseases.

8. That Sir, during the course of mental diseases of my husband, what type of ill circumstances was created as well as involved in that time which beyond expressed the distress passed with 02 minor children.

9. That Sir, I also begged for help to several persons on behalf of the patient husband to maintain expenditure of treatment during that period which was very pathetic being the wife of Rly. employee.

10. That Sir, I was also not known regarding the processes of any disciplinary action against my patient husband during that period as well as it was also not in a position to reply any reference during that course/period of un-consciousness/ mental disbalance etc.

11. That Sir, due to not receiving any intimation/letter by me on behalf of my patient husband on perfect by intimation could not be given/sent by me regarding the sick husband during that period.

Received

Office of the Divisional Manager, Tinsukia

Date

S.A. No.

Attested by
Bhadracharya

Contd:- 2

12. That Sir, Neither any representative of Rly. departmentally attended to the matter of extension or modification of the patient's husband's service on medical grounds.

13. That Sir, I, being illiterate lady, am quitely ignorant about the rules and regulation of the administration.

14. That Sir, since the resident on private gr. was situated at out side at the private location within FKG area due to non availability of Rly. Gr. as resided along with family / minor children, that the situation correspondance in this regard was not permitted due to engaged with the patient husband at the other place for the treatment of mental diseases during that period.

That Sir, there was no any other sources except Rly. service of my husband but due to unfortunate such type of incident occurred in the life of our family but such negligence was not done intentionally.

That Sir, due to unfortunate, my patient/victimised husband was released from the Civil Hospital which continued from 06-6-95 to 3-7-2000 as well as brought to the private resident/Mariani with the advice of Doctor, but suddenly expired on 5-7-2000 leaving 02 minor children which caused great distress in the family.

While it could be known from AEN/office/MXN, shocked which is also matter of great regret, that since my patient husband was undergone the treatment as victimised in mental disorder w.o. from 06-6-95, an order was passed for removal of service after expiry of 02(two) years and 06-months whose period did not exceed beyond 05 years vide AEN/MXN's letter no. 26-E dt. 5/12/97.

That Sir, if there was conducted any enquiry against my (patient) deceased husband in that time, then how could be attended the same during the course of mental disorder i.e. with unconscious condition which did not permit in that situation.

That Sir, if there was given any chance to appeal, no intimation was received by me on behalf of my patient husband, the appeal in this regard did not prefer/permit with mental diseases.

That Sir, since it was passed only 2(two) years and 06(six) months in the treatment of my victimised husband in mental diseases beyond crossed 05 years, the reason for removing service within short period is not known to the poor family.

That Sir, after the expiry of my husband, the matter could be known for which the appeal is represented explaining all the fact of your kind goods self.

In this connection, 2 nos. appeal had already lodged along with relevant records for kind consideration the case to save the life of the poor family.

Under the above circumstances, your honour is prayed to kindly look into the matter and arrange to re-consider the same for its regularisation the service period by revoking the NIP against the deceased husband so that onward action/decision may please be initiated by giving due consideration so that the poor family may be saved from ruinness and oblige thereby.

Yours faithfully,

R.T.I. of (Smt. Parbati Devi)
W/O. Late Lt. Bahadur Ex. gangman
under PWI/FKG now residing at Mariani
ward no. 4 P.O. Mariani Dist. Jorhat
(Assam)

Enc
07 (Seven)

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ANNEXURE-IX

N. F. RAILWAY.

No.562-E/Pt.XI.

Office of the
DRM(P)TSK at MBRT
Dt. 31.07.2002

To,
Smt. Parbati Devi,
W/O. Late At. Bahadur,
Ex-Trackman/FKG,
Mariani Ward No.4,
P.O. Mariani,
Dist - Jorhat (Assam).

Sub:- Prayer for revocation of NIP.

Ref:- Your appeal No. dt. 1.10.2001.

In response to your appeal quoted above, it is to inform you that Late At. Bahadur, Ex-Trackman under SE(PW)FKG was removed from Rly. service vide NIP No.26-E dt.5.12.97 issued by AEN/MXI.

The case has been verified as the case has no merit for re-consideration, question of review of the case does not arise.

For Divisional Rly. Manager(P),
N.F. Railway/Tingukia.

Attested by
Broudhury
H.W.

NO. Appeal/P.D./Griev/4/2002

Dated: 12-09-2002

ANNEXURE-X

To,

The Hon'ble,

(1) Sr. Divl. Engineer/TSK

(2) DRM(P)TSK

Subj:- Prayer re-appeal for consideration to revoke of NIP against Late AT Bahadur, Ex. Gangman under PWI/FKG due to mental deases who expired on 03-7-2000.
(My appeal no. Appeal/P.D. Griev/1/2001) dated 155-9-2001 and 01-10-2001.

Ref:- DRM(P)TSK's L/no. 562-E/Pt.XI dated 31-7-2002.

Respected Sir,

With profound respect, I, Smt. Parbati Devi, widow wife of Late A T BAHADUR, Ex. Gangman under PWI/FKG, would like to pray that since my deceased husband was suffered in mental deases as well as under gene treatment from 06-6-1995 and during that period no any intimation was also received due to remaining engage in taking care of patient husband and after passing only 2(two) years 6(six)monts, AEN/MXN passed NIP No. 26-E dated 5/12/97 and removed from Rly. service which was not known either by me or by the deceased husband.

That Sir, there are also so many gang employee in TSK division who were not yet removed from Rly. service after passing 10/12 years etc. ~~xxxxxx~~ aft but in case of my husband, the NIP issued after passing 2 years and 6 months only.

Again the poor helpless lady is like to express the following face for reconsideration from the ruinness of the whole life of me and along with the two minor children dealt with sympathetically as under-

1. That Sir, my deceased husband Late A T Bahadur was working as gangman since 01-1-1984 under PWI/FKG with entire satisfaction to his superiors.

2. That Sir, it was fact that due to unfortunate my husband (Late AT Bahadur) was suddenly attached with mental deases which affected badly after rendering 10(ten) years 5 months and 6 days as well as caused great harm in the life of family members.

3. That Sir, due to suffering from serious deases, my husband compelled to under go treatment since 06-6-1995 as shifted with help of neighbous into state govt. Assam area Project IPP-IS, Health and family W.D.(Assam) linking with the advice of Assam Medical College/ Dibrugarh for onward treatment for his curedness.

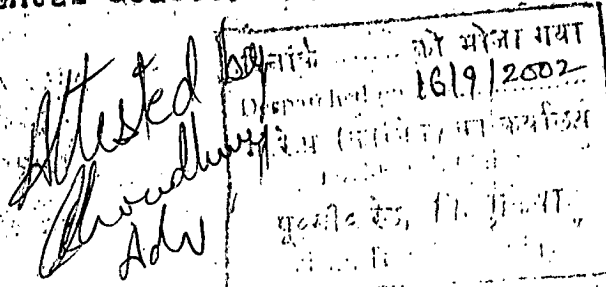
4. That Sir, during that period no any intimation was received on behalf of my patient husband while the treatment was continued to him (AT Bahadur).

5. That Sir, it was fact, during that period of mentally unconscious condition of my husband, intimation also could not be sent/given ~~xxx~~ regarding the sickly on mental treatment to the administration while it continued for.

6. That Sir, I, being alone in the family, was completely engaged with the patient husband during that period of treatment as assistance with the advice of Doctor.

8. That Sir, it was quitely ignorant in respect of giving / taking help of the Rly. administration on behalf of my husband in that time to whom no any guidance/verification was made as suffered badly in mental deases.

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8. That Sir, during the course of mental deases of my husband what type of ill circumstances was created as wellas involved in that time which beyond expressed the distreas pased with 02 minor children.

9. That Sir, I also bagged for help to several persons of behalf of the patient husband to maintain expenditure of treatment during that period which was very pathetic being the wife of Rly. employee.

10. That Sir, I was also not known regarding the process of any disciplinary action against my patient husband during that period as well as it was also not in a position to reply any reference dirang that course/period of un-conciousness/ mental disbalance etc.

11. That Sir, die to not receiving any intimation/letter by me on behalf of my patient husband on perfect by intimation could not be given/sent by me regarding the sickly huband during that period.

12. That Sir, neither any representative of Rly./departmentally attended to see or enquiry or verification the matter/situation of my patient husband during the course of treatment in that time/period nor any intimation given/sent to me on behalf of my patient husband.

13. That Sir, I, being illterate lady, am quitely ignorant about the rules and regulation of the administration.

14. That Sir, since the resident on private qr. was situated at out side at the private location within FKG area due to non avallability of Rly. Qr. as resided alongwith family/minor children, that the situation correspondence in this regard was not permitted due to engagegg with the patient husband at the other place for the treatment of mental deases during that period.

That Sir, there was no any other sources except Rly. service of my husbad but due to unfortunate such type of incident occured in the life of our family but such negligence was not done intentionally.

That Sir, due to unfortunate, my patient/victimised husband was released from the Civil Hospital which continued from 06-6-95 to 3-7-2000 as well as brought to the private resident/Mariani with the advice of Doctor, but suddenly expired on 5-7-2000 leaving 02 minor children which caused great distress in the family.

While it could be known from AEN/Office/MXN, shekced which is also matter of great regret that since my patient husband was undergone the treatment as victimised in mental disorder w.o. from 06-6-95, an order was passed for removal of service after expiry of 02(two) years and 06-months whose period did not conceed beyond 05 years vide AEN/MXN's letter no. 26-E dt.5/12/97.

That Sir, if there was conducted any enquiry against my(patient) dedeased husband in that time, then how could be attended the same during the course of mental disorder i.e. with unconcious condition whi ch did not permit in that situation.

That Sir, if there was given any chance to appeal, no intima- tion was received my me on behalf of my patient husband, the appeal in this regard did not prefer/permit with mental dease.

That Sir, since it was passed only 2(two) years and 06(six) month in the treatment of my victimised husband in mental deases beyond acre- ssed 05 years, the reason for removing service within short period is not known to the poor family.

That Sir, after the expiry of my husband, the matter could be known for which the appeal is represented explaining all the fact of your kind goodself.

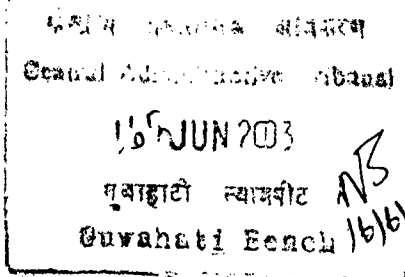
In this conneation, 2 nos. appeal had already ledged alongwith relevant records for kind consideration the case to save the life of the poor family.

Under the above circumstances, your honour is prayed to kindly look into the matter and arrange to re-consider the same for its regu- larisation the service peried by reveking the NIP against the deceased husband so that onward action/decision may please be initiated by giv- ing due consideration so that the poor family may be saved from ruin- ness and oblige thereby.

Yours, faithfully,

Encs. - 07(seven)

R.T. I. of (Smt. Parbati Devi W/O. Lat
AT Bahadur Ex. gangman under PWI/FKG new residing



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A NO.397/2002

Smti P. Devi

... Applicant

-versus-

Union of India & others

... Respondents

(Written Statements filed by the respondent No.1 to 4)

The written statements of the respondents are as follows:

1. That the copies of the O.A. No.397/2002 (referred to as the "Application") have been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar and common, written statements as common for all of them have been filed.
2. That the statements made in the application which are not specifically admitted are hereby denied by the respondents.
3. That with regard to the statements made in para 1 of the application, the answering respondents state that on the date of death i.e.5.7.2000, the applicant's husband was not in service of the respondents. The applicant's husband was removed from service as on 5.12.97 as a result of disciplinary action. The order of removal was also upheld by the appellate authority vide appellate order dt.31.7.2002. Moreover, the application for compassionate appointment was also made only on 4.6.2001, at

Filed by:-
19/5/03
(B. C. Pathak)
Addl. Central Govt. Standing Counsel

a much belated stage. The law is also well settled that for compassionate appointment, if it is a case of death, the employee must die in harness and also claim for compassionate appointment must be made immediate after the death meaning thereby to save the family from penury and to supplement the loss created by such death. The compassionate appointment cannot be granted after the lapse of a reasonable period and it is not a vested right which can be exercised at any time in future. In view of the above facts, there is no cause of action in this application and the same is liable to be dismissed with cost.

4. That the respondents have no comment to offer to the statements made in para 2 and 3 of the application.
5. That with regard to the statements made in para 4.1, the respondents state that the applicant's husband late At Bahadur was initially engaged as the casual labour in the year 1977 and he was brought under the Central Pay Commission in the year 1984 and he was posted as Gangman at Morioni. Thereafter, he was transferred as Gangman to Furkating vide office order No. 504 dated 14.11.94. While he was working as Hangman under Furkating he absented himself from duty w.e.f. 6.6.95 without informing the immediate authority. The respondents deny the correctness of the statements that the deceased husband of the applicant fell seriously ill on 5.6.95 and that he was hospitalized in Moriani Hospital on 6.6.95. The respondents also state that the statements that doctor of Morioni Hospital advised the applicant to take the patient to Assam Medical College Hospital, Dibrugarh, is a misleading one and not supported by any evidence. In case of any urgency if the patient being a Railway Employee is required to be hospitalized in non-railway hospital or authorized hospital, in that case such treatment requires certification from the railway doctor which has not been done in this case. Moreover, there is no evidence on record to show that the deceased husband of the applicant was treated in Assam Medical College Hospital, Dibrugarh. Therefore the respondents deny the correctness of the statements and put the applicant to strict proof thereof.
6. That with regard to the statements made in para 4.2, the respondents deny the correctness of the statements made by the applicant. The applicant's husband

absented himself from duty w.e.f. 6.6.95 and he was very much on duty on 5.6.95. But he did not inform any authority on 5.6.95 about his sickness and also did not file any leave memo or did not approach any Railway medical doctor available in the area for medical certificate. As a railway employee, the husband of the applicant was duty bound to abide by the rules and the procedures of Railways which was not done by the deceased husband of the applicant. Therefore, if there was any misery or distress for that only the applicant's husband is to be blamed and not the respondents. He alleged continued treatment of the applicant's husband in Civil Hospital is baseless and not supported by any medical record.

7. That with regard to the statements made in para 4.3, the respondents deny the correctness of the statements and state that the husband of the applicant was treated as an OPD patient in a dispensary and he was not hospitalized or treated in any hospital. The certificates annexed to the application do not support the applicant's contention.
8. That with regard to the statements made in para 4.4, the respondents reiterate the foregoing statements made in this written statement and also state that ignorance of law is not an excuse.
9. That with regard to the statements made in para 4.5, the respondents state that the applicant is not entitled to get compassionate appointment for the death of her husband as he was removed from service as a result of a disciplinary proceeding drawn under Discipline and Appeal Rules, 1968 and for violation of Service Conduct Rules 3(i)(ii)(iii) and he did not die in harness. The applicant's husband was removed from service w.e.f. 5.12.97 for his unauthorized absence from duty w.e.f. 6.6.95 to 4.12.97, whereas the applicant's husband expired on 5.7.2000 which is long after the date of his removal from service. Hence, the fact is that the applicant's husband expired after removal from service and also that the application made for Compassionate Appointment was made after a long gap from the date of death of her husband. The law is well settled by the Hon'ble Supreme Court so far as the object and spirit of compassionate appointment is concerned. As the applicant

could not fulfill the required criteria for compassionate appointment the respondents had no other choice but to reject her application of the applicant.

10. That with regard to the statements made in para 4.6, the respondents state that the representation/ appeal submitted by the applicant was thoroughly examined by the respondents and the same was found to be without any merit for recommendation. Accordingly, the applicant was informed vide letter No. 562-E/PT.XI dated 31.7.2002. The notice of disciplinary proceeding and other correspondence were made in the last known address of the applicant's husband and the same were returned undelivered. Under that circumstance expert opinion was taken and after observing the formalities the disciplinary proceeding was concluded resulting in removal from service. Hence, the allegation of the applicant is baseless.

The copies of the charge-sheet dated 5.12.97 and the order of the disciplinary authority dated 11.9.97 and letter dated 19.8.97 are annexed herewith as Annexure R1, R2 and R3 respectively.

11. That with regard to the statements made in para 4.7 and 4.8, the respondents state that the respondent called the applicant for a personal hearing as the full facts for compassionate appointment and the service particulars were not mentioned by the applicant in her application. Accordingly, the applicant was called for interview vide letter No. E/105/Misc/Tsk(W)/Aptt dated 6.7.2001. The respondents crave the leave of this Hon'ble Tribunal to allow them to rely upon and produce the interview-sheet showing the remarks at the time of hearing of the case. In this regard, the respondents however respectfully submit that the mere holding of interview for compassionate appointment would not create any right in favour of the applicant. The respondents are guided by the rules of Compassionate Appointment and the settled provisions of law.
12. That with regard to the statements made in para 4.9, 4.10 and 4.11, the respondents state that the appeal dated 15.9.2001 preferred by the applicant was

in fact of 1.10.2001 which was received on 5.10.2001. Considering all the facets of the matter the appeal of the applicant was rejected vide order-dated 31.7.2002 and the applicant was duly communicated the same.

13. That with regard to the statements made in para 4.12, the respondents state that the second appeal dated 12.9.2002 was not entertained for the fact that the second appeal was preferred to a lower authority while the first appeal was rejected by a higher authority.
14. That with regard to the statements made in para 4.13 and 4.14, the respondents state that the interview for compassionate appointment was held only to verify the records and also to ascertain the facts as to whether compassionate appointment could be made or not. The interview so held is not a fulfillment of conditions for compassionate appointment. From the facts and circumstances that were revealed from the records and also from the interview, the respondents found that the applicant was not eligible for compassionate appointment.
15. That with regard to the statements made in para 5.I to 5.VI, the respondents state in view of the above facts and circumstances of the case and the settled provisions of law, the grounds shown by the applicant are not tenable in law. Therefore, the application is liable to be dismissed as baseless and without any merit.
16. That the respondents have no comment to offer to the statements made in para 6 and 7 of the application.
17. That with regard to the statements made in para 8, the respondents state that under the facts and circumstances of the case and also the provision of law, the applicant is not entitled to any relief whatsoever as prayed for and therefore the application is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records may also be pleased to dismiss the application with cost.

VERIFICATION

I, Shri Ambeswar Saitia, at present working as Divisional Personnel Officer in the office of the Divisional Personnel Officer Guwahati, being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in para 1 to 9, 11 to 16 and 17 are true to my knowledge and belief, those made in para 10 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 19 th day of May, 2003 at Guwahati.

Ambeswar Saitia
DEPONENT

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N. F. RLY.
STANDARD FORM IV.
STANDARD FORM OF CHARGESHEET
(Rule 9 of Railway Servants (Discipline and Appeal) Rules, 1958)

NO. 26E AEHIA
Place of issue :- A.R.M. (P)'s Office/11/11/58
Name of Rly. Adm. N. F. Railway.

M E M O R A N D U M

1. The President Railway Board, undersigned, has received a complaint under an inquiry against Shri At Bahadur Singh under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1958, the substance of the imputations of misconduct and misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure I). A statement of the imputations of misconduct or misbehavior in support of each article of charge is enclosed (Annexure II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexures III & IV). Further, copies of documents mentioned in the list of documents as per Annexure III are enclosed.

2. Shri At Bahadur Singh is hereby informed that if he so desires, he may inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure III) at any time during office hours within ten days of receipt of this Memorandum. For this purpose he should contact immediately on receipt of this memorandum.

3. Shri At Bahadur Singh is further informed that he may, if he so desires, take the assistance of another Railway servant/an official of Railway Trade Union (who satisfies the requirements of Rule 9 (13) of the Railway Servants (Discipline and Appeal) Rules, 1958, and Note I and/or Note 2 thereunder as the case may be) for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose he should nominate one or more persons in order of preference. Before nominating the assisting Railway servant/Trade Union Official(s), Shri At Bahadur Singh should obtain an undertaking from the nominee(s) that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case(s) if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned/General Manager Railway along with the nomination.

4. Shri At Bahadur Singh is hereby directed to submit to the undersigned (through General Manager Railway) a written statement of his defence (which should reach the said General Manager) within ten days of receipt of this Memorandum. If he does not require to inspect any documents for the preparation of his defence, and within ten days after completion of inspection of documents, he should also

Contd. R/20

Attested
By [Signature]
[Signature]
[Signature]
[Signature]

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a) to state whether he wishes to be heard in person
 b) to furnish the names and addresses of the witnesses
 if any, whom he wishes to call in support of his
 defence.

5. Shri At Bahadur Singh is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri At Bahadur Singh is further informed that if he does not submit his written statement of defence within the period specified in para 2 or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1948, or the orders/directions issued in pursuance of the said rule, the inquiring authority may hold the inquiry ex-parte.

7. The attention of Shri At Bahadur Singh is directed to Rule 20 of the Railway Servants (Conduct) Rules, 1948, under which a Railway servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri At Bahadur Singh is aware of such a representation and that it has been accepted. Action will be taken against him for violation of Rule 20 of the Railway Servants (Conduct) Rules, 1948.

8. The receipt of this memorandum may be acknowledged.

Enc/

(B. Order and in the
 Name of the President) 14/8/96

सहायक इंजीनियर
 Assistant Engineer

(N. Lal)

प. सो. रेलवे मरियमी

AGN/XXH

To Shri At Bahadur Singh
 Designation At man
 place At man

SI At man
 SI At man
 SI At man
 SI At man

Copy to: Shri At Bahadur Singh
At man
At man
At man

At man
At man
At man
At man

***Name of the authority. (This would imply that whenever a case is referred to the disciplinary authority by the Investigation authority or any authority who is in the custody of the Investigation authority or who would be exchanging for investigation of the draft memorandum.)
 Where the President is the disciplinary authority, to be retained. Where the President is the Railway Board is the competent authority.
 to be used whenever applicable - Not to be used in the Railway Servant.

LT 18

H Bahadur

att. 23-10-96

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Continuation of the ground appointment of Group-D
interview held on 28.07.2001

Annex-B

Page 1
of 1
P.T.O.

Sl. No.	Name of Candidate	Name and designation of ex-employee	Date of birth	Educational qualification	Date of birth	Gender SC/ST/OBC	Date of receipt of application	Remarks
1.	Sri Rama Kanta Bakti	S/o Late Radha Mohan Bakti ex- SSM/SSE (P.W.)/MUN	16-6-96 11-6-96	H.S. (com.) Under Public (H.C. and not other part certificate)	1-3-63	OBC	1-12-2000	FS submitted by widow is wrong statement. FS for 1.2.2000 admission certificate to be given (Kamabudha Sainia OSLO) by DEN/DBRT office.
2.	"Jyotesh Bnsfore	S/o Late Babubal Bnsfore ex- S/cleaner/H.M.I./TSK	28-2-98	Class- VIII	1.1-81 1.12.83	UR	24-4-2001	Absent on 1st verification date on 25.4.2001 in DBRT chamber. Next verification attended on 24.7.2001.
3.	"Rajesh Gosh	S/o Late Shani Ram Gosh ex- Trackway/SSE (P.W.)/MRG	13.8.99	Class- VIII	1.1.71	UR	26-10-2000	
4.	Smt. Parbati Devi	W/o Late At. Bahadur ex- Trackway/SSE (P.W.)/P.W.	5-7-2000	Class- Nil		UR	5-6-2001	At. AT. Bahadur was removed dated 5.12.97. Dismissed as from interview/verification in Smt. Pm. Devi.
5.	Sri Arjun Bnsfore	S/o Late Krishna Bnsfore ex- S/cleaner/DEM/DBRT	9-10-2000	Class- VIII	5-4-79	SC	29-5-2001	
6.	Sri Jadu Gogoi	S/o Late Ramul Gogoi ex- Trackway/SSE (P.W.)/MUN	21-11-2000	Class- IX	15.6.74 15-7-74	UR	8-3-2001	
7.	Sri G. Ramu	S/o Late G. Tataiya ex- Tech./G.I./SSE (C.R.W.) TSK	29-12-2000	Class- VIII	6-11-71	UR	3-4-2001	
8.	Smt. Santi Devi	W/o Late Ramu Mal ex- Tinner/SSE (C.R.W.)/TSK	20-1-2001	Class- Nil	5-2-63	UR	17-4-2001	
9.	Sri Rajesh Kumar	S/o Late Mahave Kumar ex- B.F./TL/SSE (C.R.W.)/TL DBRT.	24-1-2001	Class- IX	21-3-79	UR	11-6-2001	
10.	Sri Budheswar Handique	S/o Late Manik Handique ex- Trackway/SSE (P.W.) SLOR.	1-2-2001	Class- IX	25-3-77	UR	17-5-2001	

Attested

Attested.

By
29/7/03

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15-87

Sl. No.	Name of candidate	Name and designation of ex-employee	Date of death/med. cert/missing	Educational qualification	Date of birth	Wt. in SC/ST/OBC	Date of receipt of application	Remarks
12.	Sri Abidul Rahman	S/o Late Jalaluddin ex-Trackman/SSE(PW)/RKG	25-2-2001	Class - IX	9-11-77 9.10.77	UR	20-6-2001	✓
13.	Smt. Palakati Gogoi	S/o Late Ajit Gogoi ex-Trackman/SSE(PW)/RKG	20-3-2001	Class - VIII	16-3-73	OBC	4-5-2001	✓ Hearing at law
14.	Smt. Karmu Devi	S/o Late Rampuram Roy ex-R.R. COB/SSE(LRO)/TRK	19-3-2001	Class - Nil	5-11-69	UR	4-5-2001	✓
15.	Sri Tejendra Singh	S/o Late Jamuna Singh MRS.	23-3-2001 21-3-2001	Class - VII	✓	UR	29-5-2001	
16.	Sri Sanjay Roy	S/o Late Sunil Kr. Roy ex-Tech/G-1/SSE(CFWS) LHO	1-4-2001 with certificate of death	Class - VIII	25-10-82	UR	29-5-2001	✓
17.	Smt. Kasmala Devi	S/o Late Dinesh Bomm ex-C/P. HAZ/SSE(CFWS) RKH	6-4-2001	Class - Nil	4-9-70 20.5.61	UR	4-7-2001	✓ Fresh affidavit to be brought at the age of 42 yrs of the applicant.

W.F. Railway.

Office of the
Assistant Engineer,
W.F. Railway, Mariani.

NO. 26-E/

Dat d. 18.9.97.

TO,

Shri At-Bahadur, Gangman.

S/O: - Karna Bahadur.

Vill:- Mayam Shishapani.

P.O. Sangja- Dist:- Sangja. (Nepal.)

Sub:- DAR enquiry under Rule 9 of Railway
servant (DEA) Rul. 1968.

Ref:- This Office letter No. 1989/97
26-E/ dated. 19.8.97.

Please find herewith copy of enquiry
report held on 11.9.97.

sted in Notice - " The disciplinary authority will take suitable
Board of office in decision after considering the report. If you
presence of the following wish to make any representation or submission
witness: you may do so in writing to the disciplinary
authority within 15 days of receipt of this
letter. "

DAI
) Mrs. Najma Begum, Teacher (T)
dt. 22.9.97

Assistant Engineer,
W.F. Railway, Mariani.

) Shri Subrata Mondal, Sr. S/c
dt. 22.9.97

Copy to:- (1) Sr. DEM/TER.
(2) DEM(P)/TSR.

(3) Sr. SE(P-My) MKC for information and advised
to paste a copy of enquiry report on your
Office Notice Board in presents of two witnesses
and return other copy to undersigned duly
signed by witnesses for office record.

Assistant Engineer,
W.F. Railway, Mariani.

Attested
Signature
18/9/97

12 (16)

Ex-parte enquiry report is to charges framed against Shri At-Bahadur, gangman under CPWI/FKG now-re-designated as Sr.SB(P-Way)FKG vide AEN/MXN SP-5 memorandum of charges No. 26-E/ dated. 14.8.96.

(1) Introduction and history of the case.

Shri At-Bahadur, gangman under Sr.SB(P-Way)FKG was unauthorisedly absent from duty since 6.6.95. Because of absenting himself unauthorisedly he was served with said memorandum of charges and was received by him personally on 23.10.96 as in S.N.4. He neither attended Office of AEN/MXN nor submitted his defence against said memorandum even after issued two number of reminders vide this Office letter No. 26-E dated 7.11.96 and even number dated 15.05.97, both are sent to his Home address by regd. post as in S.N. 5 to 9. out of the two reminders one received back un-delivered from postal deptt as in S.N. 7 and 8.

Finally DAR enquiry fixed on 11.09.97 at AEN/MXN Office vide AEN/MXN Office vide AEN/MXN letter No. 26-E/ dated. 19.8.97 and a copy of it fixed on Notice Board of the Office of Sr.SB(P-W)FKG in presence of his staff as in S.N. (13).

On 11.09.97 neither Shri At-Bahadur attended the enquiry nor submitted his any defence against said memorandum of charges, therefore, ex-parte enquiry is resorted to.

(2) Article of charges.

Article-I- It is reported by PWI/FKG vide his letter No. Nil dated. 27.6.96 that you are remaining unauthorisedly absent from duty with effect from 6.6.95 till date without any authority. ✓

Article-II- Neither you attended the Office or PWI/FKG for intimated regarding your unauthorised absence during this period. ✓

Article-III- It is the serious misconduct of your part as well as gross negligence of duty causing hamper to normal maintenance of duty. Thus you have violated the Rule (1)(ii)(iii) of Rly.service conduct rules.

(3) Defence of Railway servant in respect of each article of charges. _____ NIL _____

(4) Written brief submitted by delinquent. _____ NIL _____

(5) Findings.

After going through the entire case seriously numbered from (1) to (13) it is evident that by absenting himself with out any intimation and not caring to submit defence against memorandum of charges Shri At-Bahadur gangman has caused damaged to healthy working discipline of Railway. Thus Sri At-Bahadur violated the article 5.1(ii) of Railway service conduct Rule 1966.

Attested
[Signature]
29/3/03

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-43-

POST OFFICE

RECEIVED

16/1/98

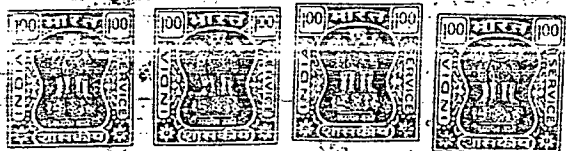
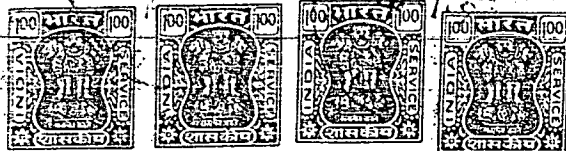
Handwritten signature/initials

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Recd with A/D

BL 186
16/1/98

[19]

To
Smt. AT Bahadur G/mer
S/O K. N. Bahadur
Vill - Bagmati Shisapara
P.O. Sangra
Dist - Sangra
Nepal

From -
AEN/ANAN
N. E. R.

Handwritten notes and circular postmark

ST

(44)

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SEP 2002

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI**

O.A NO.397/2002

Smti P. Devi

... Applicant

-versus-

Union of India & others

... Respondents

Filed by:
[Signature] 09/03
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

Pulchere Lada (RP)

(Additional Written Statements filed by the respondent No.1 to 4)

The additional written statements of the respondents are as follows:

1. That the respondents have already filed their written statement in the case and the matter was heard in part by this Hon'ble Tribunal. During the course of hearing, the applicant submitted that she is not claiming for appointment on compassionate ground for the time being and that her application is directed against the order of removal of her husband from service. In this connection, the respondents respectfully submit that until and unless a petition for amendment of the original application is made and such orders are passed allowing such amendment, the applicant cannot be

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permitted to proceed in this manner under any provisions of law.

2. That from the prayer portion of the application of the applicant it is very much clear that the applicant has claimed for appointment on compassionate ground as well as for setting aside the order of removal of her husband from service and also the rejection of appeal filed by the applicant as in Annexure VI and IX.
3. That from the pleadings of the application it is very much clear that the applicant is seeking relief in two counts, one being for setting aside the order of removal of her husband and the other for appointment on compassionate ground after the death of her husband. In such case, if both the subject matters are allowed to be agitated by the single petition, such petition will be hit by the provisions of Rule 10 of the CAT (Procedure) Rules, 1987 and consequently the application would be liable to be dismissed on that ground.
4. That after the order of removal being passed long back on 5.12.97 and there being no appeal or representation from the side of the employee concerned (i.e. the husband of the applicant who died on 5.7.2000), the present application is not maintainable as the same is hopelessly barred by the law of limitation.

5. That the legal heirs including the wife of a deceased employee may have right to claim the retiral or terminal benefits of a deceased employee. But such legal heirs do not have any right to challenge the legality and validity of a disciplinary proceeding and/or an order of removal from service of any such employee. In this regard, law is well settled that the legal heirs of an employee shall have no right to challenge the order passed in a disciplinary proceeding.
6. That in view of the above facts and circumstances of the case, the application is not maintainable in law and the same is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records may also be pleased to dismiss the application with cost.

VERIFICATION.....

VERIFICATION

I, ~~Shri~~ Smt. Pulcheria Lakshmi
at present working as Dy..Cpo / RP
in the office of the General Manager (P) / Maligaon
Guwahati, being competent and duly authorized to
sign this verification do hereby solemnly affirm
and state that the statements made in para
1, 3.5 and 6 ——— are true to my knowledge
and belief, those made in para 2 ———
being matter of records are true to my information
derived therefrom and the rest are my humble
submission before this Hon'ble Tribunal. I have not
suppressed any material fact.

And I sign this verification on this 10 th day
of September, 2003 at Guwahati.

Pulcheria Lakshmi

DEPONENT

Dy. Chief Personnel Officer (RP)
C. P. Rly. / Maligaon
Guwahati-78