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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH

ORDER SHEET

ORG. App/Misc. Petn/Cont. Petn/Rev. Appl.....

197/2004

In O.A.

Name of the Applicant(s) Sri Nikhil Chakrabarty

Name of the Respondent(s) W.O. 1 LONG

Advocate for the Applicant Mr A-Dasgupta, G.M. paul & S. Bhujyan

Counsel for the Railway/C.G.S.C. Alp.

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
1. Application is in form, is filed/C. F. for Rs. 0/- deposited vide I.P.C/BD No. 209/114/02 Dated 26/8/04	2.9.2004	On the prayer made by Mr. M. Chanda, learned proxy counsel on behalf of Mr. A. Dasgupta, learned counsel for the applicant, let the the case be listed on 7.9.2004 for admission.
Dy. Registrar Steps taken : 11/9/04	7.9.04	Present: Hon'ble Mr. K. V. Prahladan Administrative Member. Heard Mr. A. Dasgupta learned counsel for the applicant and Mr. A. K. Choudhury, Addl. C.G.S.C. for the Respondents. Application is admitted. Call for records. Returnable by four weeks. List on 6.10.04 for orders.

4-10-04

✓ S/R awaited.
✓ NO W/S - No-Seen.
Filed.

30/11/04

1) S/R is awaited.
2) NO W/S has been filed.

30/11/04

6.10.2004 Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

Mr. A. Dasgupta, learned counsel for the applicant and Ms. U. Das, learned counsel for the respondents were present.

Learned Advocate for the respondents seeks six weeks time to file written statement. Stand over to 1.12.2004.

R
Vice-Chairman

01.12.2004

On the request of learned Advocate for the respondents further six weeks time is given to file written statement. Stand over to 18.01.2005.

Mr. J.L. Sarkar, learned Advocate appeared on behalf of the respondents and his name be shown in the cause list.

R
Vice-Chairman

15-2-05

mb

W/S - No-Seen - Filed.

15.02.2005 Present : The Hon'ble Mr. M.K. Gupta, Judicial Member.

It is contended by Sri S. Bhuyan, learned counsel for the applicant that copy of the written statement filed by the respondents has not been served upon him. The only question is whether the applicant is entitled to his pension at Rs. 752.00 or ~~higher amount of~~ Rs. 757.00, has already granted as stated in para 3 of the reply. Adjourned to 24.02.2005.

S. Bhuyan
Member (J)

mb

order dt. 16/02/05, sent to D/Section ~~for~~ ^{copy} to both the parties.

(S.B)23-2-05

✓ Notice duly served.

✓ NO-Seen
2-11-1, 3, 4, 5,

✓ - No-Seen

✓ No-Seen

S. Bhuyan

Notes of the Registry	Date	Order of the Tribunal
	24.02.2005	<p>Present : The Hon'ble Mr. K.V. Prahladan, Administrative Member.</p> <p>Written statement has been filed. List on 23.3.2005 for hearing. Meanwhile, the applicant may file rejoinder, if any.</p>
<p><u>22-3-05</u></p> <p>No rejoinder has been filed.</p> <p><i>AB</i></p>		<p><i>Icm Prahadan</i> Member (A)</p>
<p><u>24-3-05</u></p> <p>No rejoinder has been filed.</p> <p><i>AB</i></p>	28.3.2005	<p>Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.</p> <p><i>Thackurthi</i></p> <p>At the request of Mr. A. Das Gupta, learned counsel counsel for the applicant the case is adjourned to 01.04.2005 for hearing.</p> <p><i>G. Sivarajan</i> Vice-Chairman</p>
<p><u>19/4/05</u></p> <p>Copy of the Judgment has been sent to the Spec. for issuing the same to the parties as well as to the Rly. Legal counsel.</p> <p><i>AB</i></p>	1.4.05	<p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of.</p> <p><i>G. Sivarajan</i> Vice-Chairman</p>

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /R.A. NO. 197 of 2004

DATE OF DECISION 01.4.2005

Sri. Nikhil Chakraborty, APPLICANT(S)

Mr. A. Dasgupta, Mr. G. M. Paul, S. Bhaiyaw, ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

U.O.I & Ors., RESPONDENT(S)

Mr. J. L. Sarkar, Rly. counsel, ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. G. SIVARAJAN, VICE-CHAIRMAN (JUSTICE)

THE HON'BLE MR.

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.

Yes
No
J.P.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.197 of 2004

Date of Order: This the 1st Day of April, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN

Sri Nikhil Chakraborty,
Son of Late Naresdra Ch. Chakraborty;
Resident of Bhakarivita,
P.O.& Dist: Bongaigaon(Assam)

Applicant

By Advocates Mr. A Dasgupta, Mr. G. M. Paul, Mr. S. Bhuyan.

-Versus-

1. Union of India
Represented by the Secretary
To the Government of India,
Ministry of Railways,
New Delhi.
2. The General Manager (P)
N.F. Railway
Maligaon, Guwahati.
3. The Works Manager, EWS, Bongaigaon
N.F.Railway.
P.O.& Dist: Bongaigaon,
Assam
4. The Assistant Works Manager,
EWS,Bongaigaon,
N.F.Railway,
P.O.& Dist: Bongaigaon.
5. The Senior Accounts Officer (W)
N.F.Railway, New Bongaigaon,
P.O.& Dist:Bongaigaon,
Assam. Respondents

By Advocate Mr.J.L.sarkar,Railway Counsel.

ORDER (ORAL)**G.SIVARAJAN, J (VC):**

The applicant retired from service of N.F.Railway, as Khalasi in the year 1989. As part of the retiral benefits his pension was fixed at Rs.752.00. The applicant made so many representations before the Respondents for fixing his pension at 50% of the last pay drawn by him. However, the Respondents have taken the view that since the applicant had taken leave without allowances for certain period during the last 10 months average of the salary drawn by him for the previous 10 months was taken and accordingly, by way of rectification, his pension was fixed at Rs.757.00 vide Annexure G.

2. According to the applicant he must get pension at Rs. 765.00 being 50% of the last pay drawn by him. Mr. A. Dasgupta, learned counsel for the applicant submits that the applicant had completed 37 years of qualifying service under Railways and the allegation that the applicant took leave without allowances within the last 10 month of service is not correct. Counsel submits that the calculation of pension made in Annexure G is not in accordance with law. I have also heard Mr.J.L.Sarkar, learned counsel for the Respondents. He submits that though the applicant's pension was initially fixed at Rs. 752.00 per mensum it was correctly calculated in accordance with the Rules at Rs.757.00 per mensum by way of rectification and that the applicant is not at all entitled to get 50% of the last pay drawn (Basic Pay) under any rules in force at relevant time.

3. I have considered the rival submissions. Chapter VII of Central Civil Services (Pension) Rules, 1972 deals with regulation of amounts of Pensions. Rules 48 of the said Rules provides for retirement on completion of 30 years

Spk

qualifying service and Rules 49(2)(a) provides that in the case of Government servant retiring in accordance with the provision of these rules after completing qualifying service of not less than thirty three years, the amount of pension shall be calculated at fifty per cent of average emoluments, subject to a maximum of four thousand and five hundred rupees per mensem. Here it must be noted that prior on 1.1.96 the maximum amount was Rs. 1275/- Thus it is clear that persons who have completed qualifying service of 33 years and more are entitled to get pension at 50% of the average emoluments Rule 34 of the Rules says that average emoluments shall be determined with reference to the emoluments drawn by a Government Servant during the last ten ~~3~~ months of his service. Now the Railways have taken the average emoluments as the average of last 10 months emoluments. The applicant has relied on a letter No. F(E)/III/97/PNI/22 dated 29.10.99 issued by the Railway Board in aid of his submissions. I have gone through the said circular. I find that the said circular was issued in implementation of Government decision on the recommendation of the 5th Pay Commission and revision relating to Pension /commutation. The circular does not in any way help the applicant either by the terms of the said circular or by analogy. Further, it was issued in relation to the option exercised by the applicant in regard to the revised pay scale. The circular also refers only to 50% of the average emoluments. The fact that the applicant had to his credit 37 years of qualifying service is no ground for fixing his pension at 50% of the basic pay last pay drawn by him.

4. I find that the Respondents had clearly worked out the admissible amount of pensions as contemplated under Rule 49, read with Rule 34 of the Rules which is the average of last 10 months salary drawn. The applicant has got a case that the calculation is not correct, for, according to him he did not avail leave on loss

Spz

of pay at any time within the last 10 months of service. In the absence of proper evidence in that regard I am not in a position to take a view contrary to the one stated in Annexure G. There is no merit in this application. It is accordingly, dismissed. However, this will not preclude the applicant from pointing out mistake if any, in the calculation made by the respondents in the form of a representation in which case the respondents will verify the correctness of the said statement and intimate the result to the applicant promptly.

Application is disposed of as above.



(G.SIVARAJAN)
VICE-CHAIRMAN

LM

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

केन्द्रीय अधिकारिक बोर्ड
 Central Administrative Tribunal

3.1 AUG 2004
 30
 गुवाहाटी ब्याबनीक
 Guwahati Bench

O.A. NO. 197/2004

SRI NIKHIL CHAKRABORTY

—VS—

UNION OF INDIA & OTHERS

Synopsis / List of Dates.

SL. No.	Particulars	Annexure	Page
1.	The applicant was a Railway Employee served under N F Railway. He joined on 10.6.1952 as Khalasi. He retired on 30.6.1989 as Fitter, Str. Grade I.	(Annexure A) Photocopy of the Identity cum Service Certificate of the Applicant.	9
2.	The applicant served for 37 years. His scale of pay was Rs.1320-2040 and his basic salary was Rs. 1530/- at the time of retirement. The pension is to be determined on the basis of the 50% of the average basic pay of last 10 months at retirement. But his pension was fixed at Rs. 752/-	(Annexure B&C) Copies of the Pension Order and the Calculation Sheet.	10-12 13-
3.	The applicant on several occasion, requested the Respondent Authority to rectify the wrong calculation and pay the actual due pension to him. He submitted representations on different dates. As the Respondent Authority did not pay any heed to his request, the applicant compelled to serve a legal notice on 13.05.04 for rectification of calculation of his pension and arrear payment since the date of retirement.	(Annexure D, E & F) Photocopies of the representations dated 1.7.2003 and 8.10.2003 and legal notice dated 13.05.2004.	14-15 16-17 18-19
4.	The Assistant Works Manager, EWS i.e. Respondent No.3 sent a letter on 2.06.2004 in reply to the legal notice to the concern Advocate of the applicant enclosing a copy of revised calculation sheet of average emoluments of the	(Annexure G) Photocopy of letter dated 2.06.2004 by the Assistant	20-21

	applicant has shown the basic pension of the applicant as Rs. 757/- instead of Rs. 765/-.	Works Manager.	
5.	The Senior Account Officer, the Respondent No. 4 on 26.03.2004 issued a letter to the Manager UCO Bank, Bongaigaon Branch wherefrom the applicant draw his pension intimating of revised pension of the applicant of Rs. 2307/- w.e.f 1.01.1996 as per 5 th Pay Commission. The actual pension of the applicants should have been of Rs. 2331/-. Due to initial wrong calculation the applicant has suffering pecuniary loss affecting his livelihood.	(Annexure H) Copy of the letter dated 26.03.2004 by the Sr. Account Officer.	22-23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

OA No.....197...../2004

Nikhil Chakraborty
Filed by
the applicant
through
Surjeet Bhupan
Surjeet Advocate

Particulars of Applicant: -

Sri Nikhil Chakraborty
Son of Late Naresdra Ch. Chakraborty,
Resident of Bhakarivita,
P.O. & Dist: - Bongaigaon (Assam)

Particulars of Respondents: -

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Railways,
New Delhi.
2. The General Manager (P)
N.F. Railway,
Maligaon, Guwahati.
3. The Works Manager,
EWS, Bongaigaon,
N.F. Railway,
P.O. & Dist: - Bongaigaon,
Assam.
4. The Assistant Works Manager,
EWS, Bongaigaon,
N.F. Railway,
P.O. & Dist: - Bongaigaon.
5. The Senior Accounts Officer (W)
N.F. Railway, New Bongaigaon,
P.O. & Dist: - Bongaigaon,
Assam.

Nikhil Chakraborty

1. Particulars of the order of which this Application is made: -

The application is made against the wrong calculation of pension of the applicant. The payment of pension order was issued on 26.07.89. He was paid Rs. 752.00 as pension instead of Rs. 765.00 w.e.f 01.07.1989. The applicant submitted a number of representations stating the wrong fixation of pension. Therefore the respondent authority issued a letter on 26.03.2004 whereby monthly pension of the applicant was reviewed and refixed as ^{after} 2307 instead of 2330 w.e.f from 01.01.96.

2. Jurisdiction of the Tribunal: -

This application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation: -

This application is within the period of limitation.

4. Facts of the Case: -

(i) That the applicant is a citizen of India and a permanent resident of Bhakarivita, P.O. Bongaigaon, District: Bongaigaon, Assam.

(ii) That the applicant was a railway employee served under N.F. Railway. He joined on 10.06.1952 as Khalasi. He retired on 30.06.1989 as Fitter, Str, Grade I.

Photocopy of the identity cum service certificate of the applicant is annexed hereto and marked as Annexure: - A.

(iii) That the petitioner served under N.F. Railway for a period of 37 years. At the time of his retirement, he was in the scale of pay of Rs. 1320 – 2040/- . His basic salary at the time of retirement was Rs. 1530. According to the pension rule in force, pension is to be determined on the basis of 50% of average basic pay of last 10 months at ~~preceding~~

Nikhil Chakravorty

retirement. So the applicant at the time of retirement was entitled to have Rs. 765/- (on the basis of scale of pay as recommended by 4th pay Commission) But his pension was fixed at Rs. 752.

Copies of the pension order and the calculation made by the respondent authority are annexed hereto and marked as Annexure: - B & C respectively.

(iv) That the applicant did not avail of any extra ordinary leave during his last 10 month of service from 01.09.1988. Be it mentioned that in a year he was entitled to earn leave for one day for his working in a month. For the period of his absence during the last 10 months of his service period he was either on earn leave or on casual leave. From the concerned Railway establishment he was never informed that no casual leave or earned leave was available at his credit while he applied for his leave of absence from duty; nor he was ever informed that he was granted extra ordinary leave i.e. without pay for any day during that period. It is further to be mentioned that from 1.9.88 he never received less salary than his dues in the months concerned herein. The calculation chart regarding his service period in Annexure C is borne out of facts and is malafide and illegal, and it is a fallout of antipathy and vindictiveness of some of the Officials of the concerned Railway establishment. At any rate at no point of time the concerned Railway authority **never** informed the applicant that for any or more days he was granted extra-ordinary leave for the period concerning calculations of his pensions/^{retirement} benefits. For the purpose of pension or other ^{retirement} benefits last 10 months

Nikhil Choksey

for the applicant has got to be reckoned from 1.9.88 till his retirement on 30.6.89. From 1.9.88 he was on the basic pay of Rs. 1530/- per month. As such his pension from 1.7.89 has got to be calculated as 765 per month and his subsequent ^{retirement} benefits has to be accorded on that basis.

(v) That the applicant on several occasions requested the respondent authority to rectify the wrong calculation and pay the actual due pension amount to him. The applicant submitted several representations. As the respondent authority did not pay any heed to his request, the applicant ^{was} compelled to served a legal notice on 13.5.04 through his lawyer under section 80 C.P.C for rectification of calculation of his pension and arrear payment since the date of retirement.

Photocopies of the representation dated 01.07.2003 and 08.10.2003 and legal notice dated 13.05.2004 are annexed hereto and marked as

Annexure: - D, E & F respectively.

(vi) That the respondent No. 3 i.e. Assistant Work Manager, EWS sent a letter on 02.06.2004 in reply to the legal notice to the concerned Advocate of the applicant enclosing a copy of revised calculation sheet of average emoluments of the applicant ^{and} has shown the basic pension of the applicant as Rs. 757/- instead of Rs. 765/-. In this calculation sheet 2 days i.e. 06.05.1989 to 07.05.1989 has been included and shown altogether 300 days from 14.08.1988 to 30.06.1989.

Photocopies of the letter dated 02.06.2004 along with the calculation

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Nikhil Chakraborty

sheet is annexed hereto and marked as
Annexure: - G.

(vii) That the Sr. Account Officer, the respondent No. 4 on 26.03.2004 issued a letter to the Manager U.C.O. Bank, Bongaigaon Branch where from the applicant draw his pension intimating ^{the} revised pension of the applicant of Rs. 2307 w.e.f 01.01.1999 as per 5th pay commission. The actual pension of the applicant should have been ~~of~~ Rs. 2331. Due to initial wrong calculations the applicant has ^{been} suffering pecuniary loss affecting his livelihood.

Copy of the letter dated 26.03.2004 is annexed hereto and marked as
Annexure: - H.

5. Grounds with legal provisions: -

Being aggrieved by action of the respondents the applicant begs to prefer this application on the following amongst other.

-Grounds-

- (a) For that the pension amount was fixed wrongly by excluding 23 days from 01.09.1988 onward and wrongly calculating a period from 14.08.1988 to 31.08.1988. Instead of 1.9.88 on which date the applicant got an increment in his scale of pay as recommended by 4th pay commission.
- (b) For that reckoning the period from 14.08.1988 to 31.08.1988 the pension amount of the applicant was calculated to lower amount then his due.
- (c) For that the action of the respondent authority of wrong calculation of the pension of the applicant caused pecuniary loss. The action of the respondent is malafide, arbitrary, capricious, illegal and without sanction of law.

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Nikunj Patel

- (d) For that the calculation sheet including revised one were prepared without applying their mind by the respondent authority and without authority of law. The revised calculation sheet which was enclosed with the letter dated 02.06.2004 by the Assistant Work Manager in reply the legal notice of the applicant was prepared incorporating 2 days i.e. 06.05.1989 to 07.05.1989 without showing any reason why the two days were not taken into count in the first calculation sheet and why it was incorporated in the revised calculation sheet.
- (e) For that the action of the authority concern affects the livelihood of the applicant and as such is violative of Article 21 of the Constitution of India.
- (f) For that the pension is a property and no citizen ^{can} be deprived of the same against the procedure established by law as contemplated under Article 300A of the Constitution of India. In this case applicant has been illegally deprived of his due pension due to arbitrary action of the respondent authority and he is entitled to have his actual pension with the interest accrued therein.

6. Details of Remedy Exhausted: -

The applicant preferred several representations before the concerned authority but the authority did not pay the due pension. The applicant has no other alternative but to approach this Hon'ble Court.

7. Matter not pending before any Court / Tribunal

The applicant declares that no application has been filed before any Court or Tribunal for adjudication.

8. Relief Sought

The applicant, therefore, prays that this Hon'ble Tribunal may be pleased to: -

- (i) Direct the respondents to pay the due pension fixing the pension at Rs. 765/- instead of Rs. 752/- and other retrial benefit from the date of retirement.
- (ii) Interest on the amount from the date on which the dues should have been released till making of payment.
- (iii) Any further or other order / orders as this Hon'ble Tribunal may deem fit and proper.

9. Interim Relief: -

The applicant does not pray for any interim relief at this stage.

10. Particulars of the postal order: -

(i)	I.P.O number	:	206116102
(ii)	Name of issuing office	:	POST OFFICE, Guwahati
(iii)	Date of issue	:	26.8.04
(iv)	Payable at	:	Guwahati

11. List of Enclosures : -

As indicated in the index.

Nikhil Chakraborty

VERIFICATION

I, Sri Nikhil Chakraborty, Son of Late Narendra Chakraborty, aged about 73 years, resident of Bhakarivita, P.O. & District: - Bongaigaon, Assam, do hereby declare and verify that the statements made in paragraphs 4(i) are true to my knowledge and that made in paragraphs 4(ii), (iii), (iv), (v), (vi), (vii) are true to my information derived from the records and rest are humble submissions before this Hon'ble Tribunal.

I sign this verification on this the 1st day of August 2004 at Guwahati.



**Northeast Frontier Railway
IDENTITY-CUM-SERVICE
CERTIFICATE**

Photograph of
the applicant

Serial No. 44

Name in Full Shri Nikhil Chakraborty
Designation Ex-Fitter / Str Grade I
Office WM / EWS / Bngn.
Division / Unit Engg (Pro)
Date of Birth 11.06.31
Basic Pay & Grade Rs. 1530/- (One thousand five hundred
thirty in scale Rs. 1320 – 2040 in RSRP
P F A/C No. 67546
Date of initial appointment 10.6.52
Worked in the Railway /From 10.6.52 to 30.06.89
Date of retirement 30.06.89
Reason for Leaving Superannuation

Date 10.09.03

Place Bngn.

Signature of Issuing Authority

Name:

Designation:

Sd/- Illegible
Works Manager EWS
N.F.Rly, Bongaigaon.

Attested
S. Bhattacharya

Annexure: - B

N.F. RAILWAY
PENSION PAYMENT ORDER
Disbursement of pension through
(Disbursers / Pensioner's por

• (Duplicate Copy)

P.P.O. No. PEN/NBQ/EWS/106(S)...

Debitable to N.F. Railway

Name of the Account Office issuing

Pension Payment Order,

Head of Account Abstract 'L' – Grant 13

Signature of the pensioner to
be taken at the time of first
payment.

Name Shri Nikhil Chakraborty Religion and caste Indian / Hindu Category
of pension Superannuation Date of birth 11.6.31 Amount of monthly
pension Rs. 752.00 (Rupees) Seven hundred fifty two only and relief of Rs.
173.00 (23%) (Rupees) One hundred seventy three only Total Rs. 925.00
(Rupees) Nine hundred twenty five only

Residential address Shri Nikhil Chakraborty, Vill Bhakaivita, P.O.
Bongaigaon, Dist. Goalpara (Assam).

Personal Identification marks:

1. One cut mark, "long on forehead"
- 2.
- 3.

Date of death of the Pensioner

.....
(To be filled in and attested by the Bank Authorities)

Officer of the FA & CAO / N.F.Rly Maligaon, Gauhati- 11, DAO /

No. Pen / NBQ / EWS / 106 (S)

26-7-

1989

(A) UNTIL FURTHER NOTICE and on the expiration of every month pay
be credit of the Savings Bank / Current Account of Shri / Smt Nikhil
Chakraborty a sum pf Rs. 925.00 (Less income tax) being amount of
Superannuation pension and Relief admissible thereon. The payment
should commence from 1-7-89

Pension	:	Rs. 752.00
Relief	:	Rs. 173.00 (23%)

Total	:	Rs. 925.00

*Attested
Bhagwan*

In the event of the death of Shri/Smt Nikhil Chakraborty family pension of Rs. 752.00 and relief of Rs. 173.00 (23%) i.e. total Rs. 925.00 (Rupees) Nine hundred twenty five only per month may be paid by credit to the Saving Bank / Current Account of Shri / Smt Bishwamaya Chakraborty with effect from the date following the date of death of the pensioner for a period of 7 years or till the attaining of 65 years of his / her age (i.e. 10.6.96) whichever is earlier and Rs. 450.00 as pension and Rs. 104.00 (23%) as relief i.e. total Rs. 554.00 (Rupees five hundred fifty four only thereafter till his / her death or remarriage whichever is earlier.

(B) UNTIL FURTHER NOTICE and on the experience of every month pay by crediting to the Bank / Current Accounts of Shri /Smt..... Savings the sum of Rs..... (Rupees) being pension Rs. and relief Rs. with effect from and Rs. (Rupees) being pension Rs. and relief Rs. with effect from till his / her death or remarriage which is earlier.

Note: - (A) is applicable to superannuation retirement and invalid pension cases.

(b) is applicable to basic family pension cases only.

Strike out A/B whichever is not applicable.

Sd/- Illegible
For F.A. & Chief Account Officer
N.F. Railway, Maligaon,
Guwahati-11

To
The Bank Manager (Link Branch)
United Commercial Bank
P.O. & Dist Bongaigaon (Assam)

Sd/- Illegible
Workshop Accounts Officer
N.F Rly. New Bongaigaon

Countersigned

For Designated F.A & C.A.O.

*Attested
Bishwamaya*

-12-

REVERSE OF DISBURSER'S
PENSIONER'S PORTION

(in words Rupees)

Amount of pension Rs.

This document is to be retained by disbursing Officer so long as the authority remains in force in such manner that the pensioner shall not access to it. Every separate payment is to be recorded below.

Month for which pension is due	Date of Payment	Disbursing Officer's initials	Date of payment	Disbursing Officer's initial	Date of payment	Disbursing Officer's initials	Date of payment	Disbursing Officer's initials	Date of payment	Disbursing Officer's initials	Remarks
	2	3	4	5	6	7	8	9	10	11	12
March	L/C	an.	31	1-03							
April											
May											
June											
July											
August											
September											
October											
November											
December											
January											
February											
Note of Pensioner's Identifications	Date	Initials	Date	Initials	Date	Initials	Date	Initials	Date	Initials	

* If the payment is by postal Money Order, Identification is required annually.

Attested
S. M. J. M.

Annexure: - C

Average emoluments of Shri Nikhil Chakraborty Fitter/ Str. Grade I under WM / EWS / BNGN.

Pay from 14.8.88 to 31.8.88	=	18 days	Rs. 870.97
@ Rs. 1500/-			
Pay from 1.9.88 to 11.10.88	=	1 mt 11 days	Rs. 2072.90
@ Rs. 1530/-			
Pay from 13.10.88 to 23.10.88	=	11 days	Rs. 542.90
@ Rs. 1530/-			
Pay from 24.10.88	=	1 day	Rs. 49.36
@ Rs. 1530/-			
Pay from 29.10.88 to 31.10.88	=	3 days	Rs. 148.06
@ Rs. 1530/-			
Pay from 6.11.88 to 14.11.88	=	9 days	Rs. 459.00
@ Rs. 1530/-			
Pay from 16.11.88 to 20.11.88	=	5 days	Rs. 255.00
@ Rs. 1530/-			
Pay from 22.11.88 to 27.11.88	=	6 days	Rs. 306.00
@ Rs. 1530/-			
Pay from 29.11.88 to 30.11.88	=	2 days	Rs. 102.00
@ Rs. 1530/-			
Pay from 2.12.88 to 8.12.88	=	7 days	Rs. 345.49
@ Rs. 1530/-			
Pay from 10.12.88 to 27.12.88	=	18 days	Rs. 888.39
@ Rs. 1530/-			
Pay from 29.12.88 to 4.5.89	=	4 mty. 7 days	Rs 6465.49
@ Rs. 1530/-			
Pay from 9.5.89 to 21.5.89			
Pay from 23.5.89			
Pay from 26.5.89 to 30.6.89	=	1 mt. 20 days	Rs. 2517.10
@ Rs. 1530/-			
		10 mts. Total	Rs. 15,022.66

$$\text{Average Pay Rs. } 15,022.66 \div 10 = \text{Rs. } 1502.26$$

$$50\% \text{ of Rs. } 1502.26 = \text{Rs. } 751.23 \text{ in } \text{Rs. } 752/-$$

Sd/- Illegible
 Works Manager (EWS)
 N.F. Railway Bongaigaon.

*Attended
Bongaigaon*

Annexure: - D

Regd. With A/D

To,

The Works Manager / EWS,
Bongaigaon, N.F. Railway.

Sub: - Prayer for Revision of Pension, w.e.f. 01.07.1989.

Ref: - Pension P.P.O. NO, PEN/NBQ/EWS/106(S) dt. 26.7.89 and
P.P.O. No. PEN/NBQ/EWS/106(S) Rev. Dt. 4.4.01 and service
certificate (Photostat copy enclosed).

Sir,

I Shri Nikhil Chakraborty Ex. HSK/I/Fitter under Foremen -I of
EWS/BNGN beg to state that I am drawing less pension w.e.f 1.7.89 to
onwards.

My service particulars are given below: -

1. Date of Appointment	:	10.6.52
2. Date of birth	:	11.6.31
3. Date of retirement	:	30.6.89 AN.
4. Designation	:	HSK/I/Fitter.
5. Date of last increment	:	1.9.88 Rs. 1530/- in scale Rs. 1320-2040(Rs.) as HSK/I/Fitter.
6. Length of Service	:	37 Years 20 days.

That Sir, my average Basic pay and pension at the time of retirement
should have been as under: -

01.09.88	=	Rs.1, 530.00 Less increment as HSK/I/Fitter
01.10.88	=	Rs.1, 530.00
01.11.88	=	Rs.1, 530.00
01.12.88	=	Rs.1, 530.00
01.01.89	=	Rs.1, 530.00
01.02.89	=	Rs.1, 530.00
01.03.89	=	Rs.1, 530.00
01.04.89	=	Rs.1, 530.00
01.05.89	=	Rs.1, 530.00
01.06.89	=	Rs.1, 530.00

10 Months average pay = Rs. 15, 300.00

*Attested
Bhupur*

Average pay Rs. 15,300.00 \div 10 = Rs. 1530.00
50% of Rs. 1,530.00 = Rs. 765.00 Basic pension.

Where as I am drawing pension of Rs. 752.00 w.e.f 1.7.89 to 31.12.95, thereafter I am drawing basic pension Rs. 2,292.00 instead of Rs. 2,330.00 Basic pension w.e.f 1.1.96 to onwards (Photostat copy enclosed).

That Sir, the anomaly arises at the time of 1st pension when prepared.

Under the above circumstances I request you kindly to review my case and arrange to revise my pension at an early date and obliged thereby.

Thanking you,

Yours faithfully,

DA: 1. Photostat copy of Original Pension.
2. Revise Pension Photostat copy.
3. Photostat copy of service certificate

(NIKHIL CHAKRABORTY)

Ex. HSK/I/Fitter

Bhakarivita, P.O. Bongaigaon

Dist: Bongaigaon, Pin-783380

Assam.

Dated: Bongaigaon
The 1st July, 2003

Copy to: -

1. SAO/W/NBQ/N.F.Rly.
for information and
necessary action.

Yours faithfully

(NIKHIL CHAKRABORTY)

Ex. HSK/I/Fitter

Bhakarivita, P.O. Bongaigaon

Dist: Bongaigaon, Pin-783380

Assam.

*Mukherjee
S. Bhattacharya*

Annexure: - E

To,

The Works Manager/EWS/Bongaigaon,
N.F.Railway.

Sub: Prayer for revision of pension / Family Pension w.e.f 1.7.89 due to wrong calculation of 10 (Ten) months of average emoluments.

Ref: Pension P.P.O No. PEN / NBQ / EWS / 106(s) Dt. 26.7.89 and
P.P.O. No. PEN/NBQ/EWS/106 (S) Rev. Dt. 4.4.01 and
Service certificate (Photostat copy enclosed). And
Photostat copy of previous average emoluments is also enclosed.

Sir,

I, Shri Nikhil Chakraborty Ex. HSK/I/Fitter under Foreman of EWS/BNGN beg to state that I am drawing less pension w.e.f 1.7.89 to onwards due to wrong calculation of 9 months 28 days average emoluments instead of 10 months at the time of retirement on 30.6.89 AN. Immediately before retirement my basis pay (i.e. w.e.f 1.9.88 to 30.6.89) was Rs. 1530.00. At the time of retirement on June /89 my full pay was Rs. 1530.00 as there was no L.W.P. during that months.

My service particulars are given below:-

1. Date of appointment : 10.6.52
2. Date of Birth : 11.6.31
3. Date of retirement : 30.6.89 AN.
4. Designation : Ex-HSK/I/Fitter.
5. Date of Last increment as on 1.9.88 Rs. 1530.00 in scale Rs. 1320-2040(Rs.).
6. Length of qualifying service : 37 Yrs. 20 days.

That Sir, my 10 months average emoluments @ Rs. 1530.00 (i.e. Last full pay drawn without L.W.P.) was not taken into account at the time of retirement. 9 months 28 days average emoluments instead of 10 months was taken into account. In no case total periods of average emoluments should not be less than 10 months (i.e. 300 days).

In that case 2 days average emoluments calculated less. As a result I am drawing less pension since 1.7.89 to 31.12.95 Rs. 752.00 instead of Rs. 765.00 (i.e. Rs. 13.00 less drawn).

That Sir, average emoluments will mean average emoluments drawn during the last 10 months qualifying service.

Afzal
Chakraborty

That Sir, as per service certificate issued from your end my qualifying service is 37 Yrs. 20 days. In this connection my previous appeal dt. 1.7.2003 is also enclosed herewith. Under the above I request you kindly to review my pension payment order taking into account of 10 months average emoluments @ Rs.1530.00 which I drawn pay immediately before retirement for which act of kindness I shall remain greatful to you.

Thanking you

Yours faithfully,

D.A.:

1.	Service Certificate.	(NIKHIL CHAKRABORTY)
2.	One previous calculation sheet.	Ex-HSK/I/Fitter,
3.	One Previous appeal dtd. 1.7.2003.	Bhakarivite, P.O. Bongaigaon, Dist: Bongaigaon, Pin-783380 Assam.

Dated: Bongaigaon.

The 8th October, 2003.

Copy to:-

1.	SAO/W/NBQ/N.F.Rly.	
2.	Pension Adalat, Maligaon	For Information.

Yours faithfully,

(NIKHIL CHAKRABORTY)

Ex-HSK/I/Fitter
Bhakarivite, P.O. Bongaigaon,
Dist: -Bongaigaon, Pin -783380
Assam.

Attested
8/10/03

Annexure: - F

Ph.: 20028 (R)

Samir Kumar Sarkar, MA, LLB.

ADVOCATE
BONGAIGAON

Residence:

T.R. Phukan Road
KATHALTALA
P.O & Dist: - Bongaigaon (Assam)

Date. 13.05.2004

Registered with A/D

To,

1. The General Manager (P)
N.F. Railway, Maligaon,
Guwahati.
2. The Works Manager,
EWS, Bongaigaon,
N.F. Railway,
P.O. & Dist. Bongaigaon, Assam
3. The Senior Accounts Officer (W),
N.F. Railway, New Bongaigaon,
P.O. & Dist. Bongaigaon (Assam).

Sub: - Notice U/S 80 of C.P.C.

Sirs,

By this notice U/S 80 of C.P.C, I am under instruction from my client Sri Nikhil Chakraborty S/o Late Narendra Ch. Chakraborty, Ex-HSK/1/Fitter, a resident of Bhakaribhita, Bongaigaon under P.O. & Dist. Bongaigaon (Assam) to sue the Union of India owing and representing by you if no relief is granted within 60(sixty) days from the date of receipt of the this notice for the following cause of action: -

(a) Name and Address of Intending Plaintiff:

Sri Nikhil Chakraborty
S/o Late Narendra Ch. Chakraborty
Bhakaribhita, Bongaigaon,
P.O. & Dist. Bongaigaon (Assaom).

*Attested
Samir*

(b) **Cause of Action:**

(i) That my client retired from Railway service on 30/6/1989 who served as HSK Grade – I / Fitter under Foreman of EWS / BNGN.

(ii) That, after retirement from his service my client started drawing the monthly Pension under basic pay of Rs. 1530.00. You made a wrong calculation of average emoluments 9 months 28 days (i.e. 298 days) instead of 10 months (i.e. 300 days) as my client completed his service in full and retired on 30.6.89 and his pension had been calculated w.e.f 1-7-89. The Pension of my client should have 50% of average basic pay. But my client had been drawing Rs. 752.00 instead of 765.00 since 1/7/89 to 31/12/95.

(iii) That, my client sent the letters on 1/7/03, 8/10/2003 and on 4/12/03 in this regard to your for regularization and to take into account the average emoluments of 10 months. Taking consideration of that letter you through your letter being No. PEN/NBQ/EWS/106/B dtd. 26.3.2004 reviewed and refixed monthly Pension of my client as Rs. 2307/- w.e.f. 1/1/96 as per 5th Pay Commission. But the said renewed and refixed Pension amount should have been 2330/- instead of 2307/- w.e.f 1/1/96, from the date of retirement. Thus a less amount of Rs. 13/- is being calculated by you. Which include the 4th and 5th Pay Commissioner entrancement of pay structure.

(iv) That, my client had visited on several occasions to your office to enquire about the irregularities and to correct the Pension amount. But on each and every occasions you justified your calculation and denied my client to correct Pension amount. Due to your latches and negligence my client has to suffer financial loss despite serving long 37 years in Railway Service diligently and sincerely.

(c) **Relief Claimed:** To rectify the monthly pension amount and to refix the amount from Rs. 2307/- to 2320/- and to make payment of arrear Pension since the date of retirement.

Yours faithfully,

*Attested
Samir Kr. Sarkar*

(Samir Kr. Sarkar)

Advocate.

Annexure: - G

N.F. Railway

Works Manager EWS
N.F.Rly. Bongaigaon

No. EN/TS (FS)/528

Dated: - 02.06.04

To,

Sri Samir Kr. Sarkar,
Advocate, Bongaigaon Court
Assam

Sub: Notice U/S 80 of CPC

Ref: Your Regd. With A/D dt. 13.05.2004.

Sir,

In response to your notice U/S 80 of CPC, it is to inform you that the calculation of pension due to retirement of Sri Nikhil Chakraborty, Bhakaribhita, Bongaigaon is concerned. In this regard, the undersigned has sent the pension calculation sheet to WAO/Pen/NBQ to your client Sri N. Chakraborty for their clarification vide this office letter of even No. dated 27.11.2003.

However a photocopy of calculation sheet showing his details of 10 (ten) months particular is enclosed for your ready reference and clarification please.

Thanking you.

Enclo: 1 (One) letter with calculation sheet

Yours faithfully

Sd/-

(G.C. Saha)

Asstt. Works Manager/EWS
N.F.Rly./ Bongaigaon

*Attested
Saha*

Average emoluments of Shri Nikhil Chakraborty Ex-Fitter/Str. Grd I under WM / EWS/BNGN

Pay from 14.8.88 to 31.8.88	= 18 days @ Rs. 1500/-	Rs. 870.97
Pay from 1.9.88 to 11.10.88 (1 day L.W.P on 12.10.88)	= 1 mt 11 days @ Rs. 1530/-	Rs. 2072.90
Pay from 13.10.88 to 23.10.88 (1 day L.W.P on 24.10.88)	= 11 days @ Rs. 1530/-	Rs. 542.90
Pay from 25.10.88 (L.W.P from 26.10.88 to 28.10.88)	= 1 day @ Rs. 1530/-	Rs. 49.35
Pay from 29.10.88 to 31.10.88 (L.W.P from 01.11.88 to 05.11.88)	= 3 days @ Rs. 1530/-	Rs. 148.06
Pay from 6.11.88 to 14.11.88 (1 day L.W.P on 15.11.88)	= 9 days @ Rs. 1530/-	Rs. 459.00
Pay from 16.11.88 to 20.11.88 (1 day L.W.P on 21.11.88)	= 5 days @ Rs. 1530/-	Rs. 255.00
Pay from 22.11.88 to 27.11.88 (1 day L.W.P on 28.11.88)	= 6 days @ Rs. 1530/-	Rs. 306.00
Pay from 29.11.88 to 30.11.88 (1 day L.W.P on 1.12.88)	= 2 days @ Rs. 1530/-	Rs. 102.00
Pay from 2.12.88 to 8.12.88 (1 day L.W.P on 9.12.88)	= 7 days @ Rs. 1530/-	Rs. 345.48
Pay from 10.12.88 to 27.12.88 (1 day L.W.P on 28.12.88)	= 18 days @ Rs. 1530/-	Rs. 888.39
Pay from 29.12.88 to 4.5.89 (1 day L.W.P on 05.05.89)	= 4 mty. 7 days @ Rs. 1530/-	Rs. 6465.48
Pay from 06.05.89 to 07.05.89 (1 day L.W.P on 08.05.89)	= 2 days @ Rs. 1530/-	Rs. 98.71
Pay from 9.5.89 to 21.5.89 (1 day L.W.P on 22.05.89)	= 13 days @ Rs. 1530/-	Rs. 644.61
Pay from 23.5.89 (L.W.P. from 24.05.89 to 25.05.89)	= 1 day @ Rs. 1530/-	Rs. 49.35
Pay from 26.05.89 to 30.06.89	= 1 mt. 6 days @ Rs. 1530/-	Rs. 1826.12
	= 10 months	Rs. 15,121.32

Average Pay Rs. 15,121.32 ÷ 10 = Rs. 1512.13

50% of Rs. 1512.13	= Rs. 756.06 in say	= Rs. 757.00	in the scale of Rs. 4531.71 as per 5 th pay commission
Pension now to be drawn	Rs. 757.00 P.M.	Rs. 2307.00	
Pension all ready drawn	Rs. 752.00	<u>Rs. 2292.00</u>	
Difference	Rs. 5.00 P.M.	Rs. 15.00	

Sd/- Illegible

Works Manager (EWS)
N.F. Railway Bongaigaon.

Attested
Shyam

Annexure: - H

N.E. RAILWAY

Office of the
SENIOR ACCOUNT OFFICER
NEW BONGAIGAON
Dated: 26.03.2004

No. PEN/NBQ/EWS/106(S) Revised

To,

The Manager / Link Bank) Director of Accounts (Postal) / A.G.
UCO Bank, Bongaigaon Br.
P.O. & Dist: - Bongaigaon.
Assam.

Sir,

I am forwarding herewith a revised (family) Pension Payment Order No. PEN/NBQ/EWS/106(s) Revised disburser's Portion & Pensioner's portion in favour if Shri/Smt Nikhil Chakraborty Ex-F/Str. (1) along with two (2) calculation sheets for credit of family pension as detailed in the PPO w.e.f. 01.01.1996 per month in his/her saving Bank Account through your Paying Branch/Treasury Office/Post Office/AC at UCO Bank Bongaigaon Branch Account No. 1348/26/G.II.

NB:-All payment already made as per Instructions laid down in Ministry of Personnel, Public grievances & Pensions. Department of Pension & Pensioners Welfare vide No. 45/85/97-P & PW (A) Part-II dt.27-10-1997 should be adjusted with the payment now advised at the time of first payment.

(2) All others terms & conditions of previous PPO seat under this office letter of even number dated 27.2.2001 shall remained no changed.

Attested
B. D. Dey

Enclo 4 sheets.

Countersigned

Yours Faithfully

Designated FA & CAO/Pension

N.F. Railway with metal seal

S/d Illegible

Senior Accounts Office (W)

N.F. Railway, New Bongaigaon (Assam)

Copy for information

1. CPO/Budget/N.F.Railway,/Maligaon/FA & CAO/Pension
2. Wtn/EWS/BNGN/N.F.Rly.....(concerned executive)
3. Shri/Smt. Nikhil Chakraborty, Vill. - Bhakarivita, P.O.Dist. Bongaigaon (Assam) to attend UCO Bank Bongaigaon, on receipt of advice from Branch Manager/Treasury Office/Post Master.
4. Branch Manager/Treasury Office/Post Master UCO Bank Bongaigaon, P.O. & Dist. Bongaigaon, Assam. He is requested to advice the Pension in terms of Railway Boards letter No. F/(E) III/98/PN ½ dated 10.3.1998 of the scheme and credit Pension/Family Pension in his/her saving Bank Account. He is also requested to hand over the Pensioner's portion of PPO to the pensioner.

1) Self pension Rs. 2300/-pm+DA for FA & Chief A/cs.

Ref. O1.01.1996

Office/Pension

(Arrears should be paid w.e.f.

DAO/WAO/AAO

01.01.96,if admissible)

2) /Pension (normal) Rs. 1405.50pm+DA

w.e.f. 11.06.1996 to onwards

Attested
g. b. m. g.

5 JAN 2001

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

O.A. No. 187 of 2004

Shri Nikhil Chakraborty

- Versus -

Union of India & Ors.

उम्मीद कारखाना प्रबन्धकार्यालय कारखाना
ASSTT. WORKS MANAGER/BWS
प्रबन्धकार्यालय, बागहाट
N. F. RLY, BONGAIGAON

Filed by the Respondents, through, Advocate, 5/01/01

Written statement on behalf of the Respondents.

The respondents in the above case most respectfully
beg to state as under :

1. That the respondents have gone ~~thru~~ through the O.A. and understood the contents thereof.
2. That the O.A. ^{is} barred by limitation and deserves to be dismissed on that count alone. The pension payment order was issued on 26.7.1989 and payment particulars for 10(ten) months were enclosed. After about 14 (fourteen) years he submitted representation of giving wrong particularly of monthly salaries received.
3. That in reply to statements in para 4(iii) and 4(iv) it is stated that pension is calculated on the ^{average} ~~last~~ 10(ten) months pay and not on last pay drawn. His statement in para 4(iv) that he did not avail of any extraordinary leave during last ten months of service is denied. The applicant has made deliberate false statements. His pension was initially fixed at Rs.752.00 p.m. which was revised at Rs. 757.00 p.m. by the respondents themselves.
4. That after the 4th and 5th Pay Commission the pension have been revised and he is being paid pension correctly with allowances as admissible. The applicant, a retired

contd..

Railway employee should not have filed the O.A. giving false statement of his working days during the period 14 years old and that he is not with clean hands.

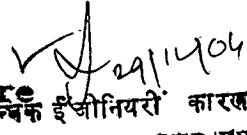
5. That in the facts and circumstances the O.A. deserves to be dismissed with costs.

VERIFICATION

I, Gaurang Chandra Saha --- working as Asstt. Works Manager/EWS aged about 48 years, do hereby verify and say that the statements made in paragraphs 1 to 5 are true to my knowledge.

Place : Bongaigaon.

Date : 29.12.04

Signature 
२९/१२/०४
स्टू कारखाना प्रबन्धक इंजीनियरी कारखाना
ASSTT. WORKS MANAGER/EWS
Designation रेलवे, बंगाइगाँव
N. F. "LY, BONGAIGAON -