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**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 61/2004

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Org.App/ Misc.Petn/Cont.Petn/ Rev.Appl. 6/04

In O.A. \_\_\_\_\_

Name of the Applicant(S) Mohiuddin Khan

Name of the Respondent(S) Cor 2 ors

Advocate for the Applicant Mr Adil Ahmed

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

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
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	09.03.2004	Present : The Hon'ble Sri K.V. Prahladan, Member (A).
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Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the respondents.

Considering the facts and circumstances of case, the respondents are directed to make payment G.P.F., insurance, leave encashment if any and DCRG of the applicant within one month from the date of receipt of this order. Regarding pension and other pensionary benefits of the applicant the respondents may make payment as per rule.

The O.A. is disposed of accordingly. No order as to costs.

*[Signature]*  
Member (A)

119 378263  
6/3/04

*[Signature]*

NS  
8/3/04

*[Signature]*  
18/3/04

10.5.04

Copy of the order alongwith application have been sent to the office for reply to the Respond. Nos 2 ors by speed post at the cost of the applicant.

mb

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RECEIVED  
6 MAR 2004  
2004/37

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

ORIGINAL APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 61 OF 2004.

Sri Mohiuddin Khan -Applicant.  
-Versus-  
Union of India & Others -Respondents.

LIST OF DATES AND SYNOPSIS

Annexure-A&B are the photocopies of letters sent by the applicant to the Respondent Nos. 2 and 3.

Annexure-C is the photocopy of letter for cancellation of the applicant's nominee.

The applicant was ex-peon under the Respondent No. 3. He retired from service on 28-02-2003. But till today he has not been paid the pensionary benefits by the Respondents. Hence, he has filed this Original Application

before this Hon'ble Tribunal for Non-payment of pensionary benefits, including G.P.F., Group Insurance, leave salary, Gratuity and all other pensionary benefits payable to the applicant and also for seeking a direction from this Hon'ble Tribunal to the Respondents for early payment of the above benefits to the applicant.

Filed by  
Shri Mohiuddin Khan  
Applicant  
Abdur  
(ABUL AHMED)  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH AT GAUHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985.)

ORIGINAL APPLICATION NO. 61 OF 2004.

B E T W E E N

Sri Mohiuddin Khan, Ex-Peon,  
Son of Late Azhar Khan,  
P.N. No. 3167,  
Resident of Army Supply Depot  
Road, (Near Canteen Store Depart-  
ment) P.O.-Dimapur, Nagaland.  
-Applicant.

-Versus-

- 1] Union Of India,  
represented by the Secretary,  
Ministry of Defence, 101 South  
Block, New Delhi-1.
  
- 2] The General Manager, Canteen Store  
Department, ADELPHI, 119 Maharshi  
Karve Road, Mumbai, 400020.

3] The Area Manager,  
Canteen Store Department,  
Area Depot, Army Supply Depot Road  
P.O.- Dimapur, Nagaland.

4] Sri Kudaiza Khatoon,  
Daughter of Late Zafar Khan,  
Resident of Village-Kewla,  
P.O.-Kewla, P.O.-Singhrawan,  
P.S.-Chauparana,  
Dist.-Hazaribag, Jharkhand.

-Respondents.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH  
THE APPLICATION IS MADE:

The instant application is directed against Non-payment of pensionary benefits, including G.P.F., Group Insurance, Leave Salary, Gratuity, etc. and all other pensionary benefits payable to the applicant and also for seeking a direction from this Hon'ble Tribunal to the Respondents for early payment of the above benefits to the applicant.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

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

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.1] That your humble applicant is citizen of India and as such, he is entitled to all the rights and privileges and protection granted by the Constitution of India.

4.2] That your applicant begs to state that ~~he has~~ retired from service on 28-02-2003 as

Peon from the Office of the Respondent No.3, i.e., Area Depot, Canteen Store Department, Dimapur.

4.3] That your applicant begs to state that he had married the Respondent No. 4. The Respondent No. 4 leaving separately at the above-mentioned address and neglecting the applicant from the very beginning of their conjugal life. After retirement the applicant proposed the Respondent No. 4 to leave with applicant at Dimapur (Nagaland) and to lead a peaceful retired life. But the Respondent No. 4 refused to leave <sup>together</sup> with the applicant. The Respondent No. 4 has also refused to co-operate with the applicant regarding submission of necessary papers for pensionary benefits of the applicant. Finding no other alternative the applicant divorced the Respondent No. 4 on 10<sup>th</sup> July 2003. by sending Talaqnama as per Mohammedan Law. The applicant has also informed the Respondent No. 2 and 3 about his divorce with his ex-wife, i.e., Respondent No. 4.

Annexure- A & B are the photocopies of letters sent by the applicant to the Respondent Nos. 2 and 3.

4.4] That your applicant begs to state that he has also cancelled the Nomination of his ex-wife, i.e., Respondent No. 4 and he has also not nominated any body as his fresh nominee. As such, he declared that after his death no-body will be entitled to get the death-cum-Pensionary benefits of the applicant. The above said cancellation of nomination of pensionary benefits has sent to the Respondent Nos. 2 & 3

Annexure-C is the photocopy of letter for cancellation of the applicant's nominee.

4.5] That your applicant begs to state that till now the Respondents No. 2 & 3 are not releasing the pensionary benefits to the applicant including his G.P.F., Group Insurance, Gratuity, Leave Salary, etc. The Respondent No. 4 has no locus standi for the claim of his G.P.F., Group Insurance, Gratuity, Leave Salary, etc. But surprisingly the

Respondent No. 2 and 3 without any valid reason illegally and arbitrarily withholding the entire amount of applicant's G.P.F., Group Insurance, Gratuity, Leave Salary etc. The claim of Respondent No. 4 regarding pensionary benefits of the applicant may only be confined to the death-cum-Pensionary benefits of the applicant. Moreover, the Respondent No. 4 is no more wife of the applicant. The Respondent No. 4 has own source of income. She is leaving separately from the applicant for many years. The son and daughters of the applicant are major and married and they are leaving separately with their respective families. Hence, finding no other alternative your applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.6 That your applicant begs to state that he has unblemished career under the Respondents. He sacrificed his major part of life under the Respondents. There is no stigma in his service career. As such, there is no valid and cogent reason for withholding the legitimate benefits of the applicant.

4.6 That your applicant submits that it is a fit case for interferences by the Hon'ble Tribunal regarding release of pensionary benefits to the applicant immediately. The Hon'ble Tribunal also may be pleased to pass an interim order for immediate release of the G.P.F., Group Insurance, Leave Salary, etc. to the applicant. Otherwise your humble applicant will die on starvation as he has no other source of income. Being a poor Grade-IV employee he has no huge bank balance and his meager deposit money has already been finished.

4.7 That the applicant begs to state that he is running from pillar to post for getting his legitimate pensionary benefits including G.P.F., Group Insurance, Leave salary, etc. But till today the respondents have not taken any sympathetic view in this matter.

4.8 That your applicant submits that the action of the Respondents is arbitrary, mala fide, whimsical, discriminatory and also without jurisdiction.

4.9 That your applicant submits that the Respondents have violated the Articles 14, 16 and 21 of the Constitution of India.

4.10 That your applicant submits that the Respondents have violated the Principles of Natural Justice.

4.11 That this application is made bona fide and for the ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, the action of the respondents for not releasing pensionary benefits to the applicant is illegal, arbitrary, mala fide and violative of the principles of natural justice.

5.2 For that, the respondents have deprived the applicant from his legitimate claim of pensionary benefits including the G.P.F., Group Insurance, Gratuity, Leave Salary, etc. and as such the act of the

Respondents is not maintainable in the eye of the law.

5.3] For that, the respondents have violated the fundamental rights of the applicant and as such the action of the respondents is illegal, mala-fide with a motive behind.

5.4] For that, the applicant's case is a genuine and also need a sympathetic consideration of the matter by the Respondents and hence the Respondents cannot deny it.

5.5] For that, being a model employer the Respondents cannot deprive the applicant from his hard earn money including G.P.F., Gratuity. Leave Salary, etc.

5.6] For that the applicant has all along unblemished service career without any stigma in his service life. As such, the action of the Respondents is illegal, mala fide and also with a motive behind.

5.7] For that the applicant has sacrificed his major part of his life by serving under the Respondents, as such, the Respondents cannot deny the pensionary benefits for which the applicant is legally entitled.

5.7] For that, in any view of the matter the action of the respondents are not sustainable in law and as well as facts. The applicant crave leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this petition, records may be called for and after hearing the parties on the cause or causes that may be show and on perusal of the records grant the following relief to the applicant.

- 8.1] To direct the respondents to release the pensionary benefits, including GPF, Leave Salary, Gratuity, Group insurance, etc. to the applicant.

8.2 To grant such further or other relief or reliefs to which the applicant may be entitled having regard to the facts and circumstances of the case.

8.3 Grant the Cost of this application to the applicant.

9] INTERIM ORDER PRAYED FOR:

The applicant most respectfully prays for an interim order before this Hon'ble Tribunal that till final disposal of the case the Respondents may be directed to release the G.P.F., Group Insurance, Gratuity, Leave Salary to the applicant.

10] Application Is Filed Through Advocate.

11] Particulars of I.P.O.:

I.P.O. NO. 116-378263

Date Of Issue

Issued from Guwahati

Payable at

12] LIST OF ENCLOSURES:

As stated above.

- Verification.

## VERIFICATION

I, Sri Mohiuddin Khan, Ex-Peon, aged about 61 years, Son of Late Azhar Khan, P.N. No. 3167, Resident of Army Supply Depot Road, (Near Canteen Store Department) P.O.-Dimapur, Nagaland, the applicant of the instant case do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.5, 4.6 ——— are true to my knowledge, those made in paragraphs 4.3, 4.4 ——— are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 8<sup>th</sup> day of March 2004 at Guwahati.

Mohiuddin Khan.

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ANNEXURE - A4B

To,

The General Manager,  
Canteen Store Department,  
'ADELPHI' 119 Maharshi Karve  
Road, Mumbai-400020.

Sub:- Early and immediate release of  
General Provident Fund and  
Gratuity Amount.

Sir,

Most respectfully, I beg to state that  
I have retired from Canteen Store Department,  
Office of the Area Manager, Area Depot,  
Dimapur, Nagaland on 28-02-2003 as peon (P.N.  
No. 3167).

That Sir, I have already divorced my  
wife Khodeza Khatoon, D/o Late Zafar Khan,  
Resident of Village- Kewla, P.O.-Singhrawa,  
Police Station-Chauparana, District- Hazaribag,  
Jharkhand on 10<sup>th</sup> July 2003 and I have already  
sent notice to you for cancellation of my  
Nominee, i.e., my ex-wife. I have not sent any  
fresh nominee to you as I have no nominee, who  
can look-after me. Hence, after my death my  
pensionary benefits should not be given to  
anybody.

*Advised*  
*Amend*

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That Sir, I am facing acute financial hardships after my retirement from my service. My meager deposit has already been consumed. No-body is helping me in my old age and no-body is willing give me loan to run my day-to-day affairs. Now I am at the verge of starvation.

I, therefore, request you to early and immediate release of my General Provident Fund and Gratuity Amount within 7(seven) days from the receipt of this letter to save me from starvation. Or, else, I may compel to approach the legal forum for early release of my General Provident Fund and Gratuity Amount then I may claim interest for above said amount. This may be treated as most urgent.

Thanking you,

Yours faithfully,

Mohiuddin Khan  
ex-peon (PN. NO. 3167)  
Area Manager,  
Canteen Store Department,  
Area Depot,  
Army Supply Depot Road,  
P.O. - Dimapur, Nagaland.

*J.S. Akhbar*  
*Admn. In-charge*

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ANNEXURE - C

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To,  
The General Manager,  
Canteen Store Department,  
'ADELPHI' 119 Maharshi Karve  
Road, Mumbai-400020.

Sub:- Cancellation of nomination.

Sir,

Most respectfully, I beg to state that I have retired from Canteen Store Department, Area Depot Dimapur, Nagaland on 28-02-2003 as peon (P.N. No. 3167).

That Sir, in my service Book I have nominated my wife Kudaiza Khatoon, D/o Late ZAFAR Khan, Resident of Village- Kewla, Police Station-Chauparana, District- Hazirabad, Jharkhand as my nominee after my death.

That Sir, I have already given Talaaq to my wife Kudaiza Khatoon, D/o Late ZAFAR Khan, Resident of Village- Kewla, Police Station-Chauparana, District- Hazirabad, Jharkhand as per Muslim Law on 10(ten) July 2003 (Thursday). As per Muslim Law from that day i.e. 10 (ten) July 2003 that my wife become Haram (untouchable) to me.

Attest  
[Signature]  
[Signature]

That Sir, I hereby cancelled my nominee name of my ex-wife i.e. Kudaiza khatoon, D/o Late Mustafa Khan, Resident of Village- Kewla, Police Station-Chauparana, District- Hazirabad, Jharkhand.

That Sir, I have no fresh nominee as my daughters are already married and my two sons have died. And regarding my other son who is major and has own source of income living with his family. There are nobody in my family members to look after me hence I have no other member in my family to give fresh nominee to receive the pensionary benefit after my death. Therefore, I have not given any fresh nominee in this regard.

That Sir, I am enclosing my talaq nama to my wife dated 10 (ten) July 2003.

Thanking you,

Yours faithfully,

Mohiuddin Khan

ex-peon (PN. NO. 3167)

AS  
AS

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Office of the Area  
Manager, Canteen Store  
Department, Area Depot,  
Army Supply Depot Road,  
P.O. - Dimapur, Nagaland.

Copy for information and necessary action to:  
1] The Area Manager, Canteen Stores Depart-  
ment, Area Depot, Dimapur, Nagaland.

Attended  
Admitted