

100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

W.P.-72/06-ordered date-1

INDEX

O.A/T.A No. 280/2005

R.A/C.P No.....

E.P/M.A No. 72/2006

Disposed date-28/07/06

No. Separate order.

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SECTION OFFICER (Judl.)

FORM NO. @  
 (See Rule 42 )  
 CENTRAL ADMINISTRATIVE TRIEUNAL  
 GUWAHATI BENCH.

ORDER SHEET

Orginal Application No. 280/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) Miss Purnima Datta

Respondent(s) M. O. T. Form

Advocate for the Applicants Mr. U. K. Majir, Mr. B. Sarma

Advocate for the Respondent(s) Mr. M. Sarma ✓ Rly St. Counsel

Notes of the Registry	Date	Order of the Tribunal
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	17.11.05	Heard Mr. B. Sarma, learned counsel for the applicant and Mr. J. L. Sarkar, learned Standing counsel for the Railways. Mr. Sarkar submits that he will get instruction in the matter from the respondents. This will not preclude the respondents from disposing the representations stated to have been filed by the applicant.
		Post on 20.12.2005.

Steps not taken.

For 23rd  
for J. L. Sarkar

Vice-Chairman

20.12.2005 Heard Mr. B. Sarma, learned counsel for the applicant and Mr. J.L. Sarkar, learned standing counsel for the railways.

It is stated that the applicant was not given the pensionary benefits due to father of the applicant allegedly on the ground that there is no record to show that late AmarChand Dutta was an employee of the Railway. Though Mr. J.L. Sarkar, learned standing counsel for the Railways had sought for instructions from the respondents in the matter, he was not able to get as on today. Mr. B. Sarma, learned counsel for the applicant has placed before the Bench a copy of the Provisional Seniority List of Gate Keeper Posts in the scale of pay of Rs. 196-232/- under PWI/GHY as on 1.4.75 in which late Amar Chand Dutta was shown as Sl. No. 14, from which it is clear that the applicant's father was an employee of the Railway. Mr. J.L. Sarkar, standing counsel for the Railways then submits that he will ascertain the said fact also from the respondents.

Post on 23.1.2006. The respondents will file their affidavit-in-opposition within that time positively.

2  
2  
9  
Vice-Chairman

20.1.06

*No affidavit in opposition  
till now*

23.1.2006

Dr. J.L. Sarkar, learned Standing counsel for the Railways submits that he has not yet received instruction as to the position of the employee who is said to be an employee of the Railways. Mr. B. Sarma, learned counsel for the applicant submits that the document that he has produced is available in Guwahati office

Contd.

Pl. comply adu  
dated 23.1.06

WB  
24.1.06

~~Recd  
23.1.06  
Rly. S. C.~~

23.1.2006 of the N.F.Railways. Counsel for the respondents is specifically directed to get instruction on the point. Registry is directed to hand over the copy of the O.A. to the counsel for the respondents so that the matter could be expedited.

Post on 24.2.2006.

Vice-Chairman

23.2.06  
Copy of the O.A. Served  
on the Respondents Counsel.

bb

DM

5-4-06

No Reply has been  
billed.

DM

6-6-06

No W.B. has been  
billed.

DM

26.7.06

W.S. filed by the  
Respondents.

DM

24.2.2006

Dr.J.L.Sarkar, learned Standing counsel for the Railways submits that it may take some more time to process the representation of the applicant as directed earlier, hence some more time is sought. Let it be done. Post on 6.4.2006.

5-4-06

No Reply has been filed.

Vice-Chairman

bb

6.4.06

Mr S.Nath, on behalf of Dr. J.L. Sarkar, learned Railway standing counsel seeks further time to take instruction.

Post on 8.5.06 for order.

5-5-2006

pg

No Reply filed so far.

b/w

08.05.2006 Learned counsel for the respondents wanted time to file reply statement.

Post on 07.06.2006.

6-6-06

No reply filed so far.

b/w

Vice-Chairman

mb

7.6.2006

Dr.M.C.Sharma, learned Railway counsel prays for four weeks further time to file reply statement. Let it be done.

Post on 7.7.2006.

6-7-06

No W/Ls has been filed.

My

bb

Vice-Chairman

13.9.06.

No notice for the applicant. for consecutive period. Registry is directed to put the name of respondents correctly as Dr.M.C.Sarma is appeared in this matter for the respondents.

Vice-Chairman

lm

18.9.2006

post on 19.9.2006 for appearance of Dr.M.C.Sharma, learned Railway counsel.

Vice-Chairman

bb

19.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

After hearing some time Mr B. Sarma, learned Counsel for the Applicant submitted that the Respondents referred certain documents in the reply statement and they may be directed to produce the said documents. Accordingly, the Respondents are directed to produce the said documents. Post on 23.10.2006 for hearing.

Vice-Chairman

/mb/

23.10.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Post on 26.10.2006.

Vice-Chairman

/mb/

26.10.2006 Learned Counsel for the Respondents wanted to have further time to produce the records. Let the case be posted on 16.11.2006 as final chance.

Vice-Chairman

/mb/

07.07.2006 Post on 25.07.2006. In the meantime, the respondents are at liberty to file reply statement. If no reply statement is filed by the respondents, it shall be presumed that the respondents have no reply statement to file.

Post on 25.07.2006 in the hearing list.

24.7-06  
No WJS filed.  
/om

Vice-Chairman

mb

25.07.2006 Dr. M.C. Sarma, learned railway advocate for the respondents submitted that he has already filed reply statement and wanted time to go through the rules. The issue involved in this application is non payment of pensionary benefit to the 2nd wife according to the respondents. Considering the issue involved, I am of the view that the O.A. has to be admitted. Admit. The learned counsel for the applicant is at liberty to rejoinder, if any.

Post on 28.08.2006 in the hearing list.

12-9-06  
No Rejoinder has been filed.

Vice-Chairman

mb

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

15-11-06  
No Rejoinder has been filed.

Post on 13.09.2006.

Vice-Chairman

/mb/

O.A. 280/2005

X

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Records Received  
one envelope (open) and  
kept in Almanah in  
Judgment.

NS  
16.11.06.

Dr. M.C. Sarma, learned Railway  
Counsel for the Respondents has  
produced the records as per the direction  
of this Tribunal dated 19.09.2006. The  
Registry is directed to keep the same in  
safe custody. Learned Counsel for the  
Applicant is not present and he is directed  
to present in the next date of hearing.

Post on 23.11.2006 for hearing.

① Wks has been filed.  
② No responder filed  
by the applicant.

22.11.06.

Vice-Chairman

/mb/

23.11.06. Heard learned counsel for the  
parties. Hearing concluded. Judgment  
reserved.

Vice-Chairman

lm

21.12.06

Order pronounced. O.A. is dismissed  
in terms of the order & recorded  
separately. No costs.

Vice-Chairman

pg

6.2.07  
Copy of the  
order has been  
sent to the office  
for delivery to the  
to the applicant and  
a copy of the order  
handed over to the  
Adv. Counsel.

6.2.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

280 of 2005

O.A. No. ....

DATE OF DECISION: 21.12.2006

Ms. Purnima Dutta

..... Applicant/s

Mr B.Sarma

..... Advocate for the  
Applicant/s.

..... Versus -

Union of India & Others

..... Respondent/s

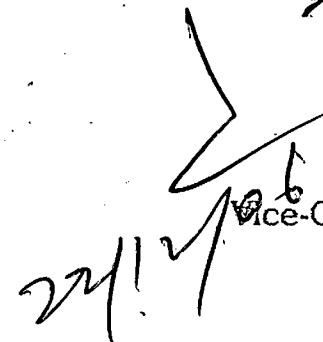
Dr.M.C.Sharma, Railway Standing Counsel

..... Advocate for the  
Respondents

CORAM

THE HON'BLE SRI K.V. SACHIDANANDAN, VICE CHAIRMAN.

1. Whether reporters of local newspapers  
may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest  
Being complied at Jodhpur Bench & other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy  
of the Judgment ? Yes/No

  
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 280 of 2005

Date of Order : This, the 21st day of December, 2006.

**The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.**

Miss Purnima Dutta  
Daughter of Late Amar Chand Dutta,  
Resident of Bonda Colony  
Guwahati, District - Kamrup.

... Applicant.

By Advocate: Mr. B. Sarma.

- Versus -

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Railways, Rail Bhawan, New Delhi.
2. The General Manager (C),  
N.F. Railways,  
Maligaon, Guwahati.
3. The Divisional Railway Manager (P),  
N.F. Railway, Lumding, Assam.

... Respondents.

By Advocate : Dr. M.C. Sarma, Railway Counsel.

.....  
O R D E R ~

K.V. SACHIDANANDAN, (V.C.)

Late Amar Chand Dutta, who was an employee under the Respondents died-in-harness on 21.08.1980. The mother of the Applicant had made several correspondences with the authorities for release of the service benefits as admissible and for payment of the regular family pension. The appeals preferred by the mother of the Applicant evoked no response and ultimately on 29.05.1983, she also passed away, leaving the Applicant as orphan. The daughter of late

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Amar Chand Dutta requested for release of pensionary and other benefits as admissible with regard to the service of her late father. The Respondent Authorities did not process the matter and as a result, the Applicant has been deprived from her legitimate dues. The Applicant belongs to most economically and socially backward section of the society and the Respondents should have granted her legitimate dues. According to the Applicant, the deceased served under the Respondents for 28 years. Aggrieved by the non granting of service benefit by the Respondents, the Applicant has filed this Application seeking the following main reliefs:-

- 8.1 To direct the respondent authorities to release the amounts as mentioned in the Annexure - 4 Succession Certificate and any other amount that may be due to her in respect of the services rendered by her father and under the Respondents.
- 8.2 To direct the respondent authorities to release to the applicant the arrears of family pension due to the heirs of Late Amar Chand Dutta, pending w.e.f. 21.9.80 and to ensure prompt payment of due monthly family pension to the applicant.
- 8.3 To direct the respondents to pay to the applicant @ 21 % per annum on the amounts due to the applicant being the legal heir of the late Amar Chand Dutta w.e.f. 21.8.80 till the date of actual payment of the same."

2. The Respondents have filed a detailed reply statement contending that the Applicant should be put to strict proof of the averment made in the O.A. The Application is bared by limitation: The person claimed by the Applicant as her father died on 21.08.1980 and after expiry of the employee three ladies claimed to be the wifes of the employee applied for payment of the final settlement dues. After conducting departmental inquiry, the final settlement dues were paid to the first wife of the employee as per rule on 30.08.1984 and on



07.03.1988. The Respondents not only paid the late employee's final settlement dues to the proper claimant, but also gave employment to one of his sons. Therefore, the Respondents have duly discharged their obligations to the ex-employee in full as per rule. 25 years ago, i.e. on 21.08.1980, Late Amar Chand Dutta, Gatekeeper under the Permanent Way Inspector, Guwahati died on natural causes during his service life. Due to passage of time, full records were not available, but copies of correspondences and scraps of other information reveal that after the death of the employee one Smt Bimal Rani Dutta and her children applied for the final settlement dues of the late employee. Thereafter, two other ladies, viz. Smt. Dalu Rani Dutta and Smt. Sabitri Dutta also claimed the final settlement dues of late Amar Chand Dutta. As per pass declaration of the employee given in 1974 and 1979 is considered authentic record of the family of the employee. According to the report of the Labour Welfare Inspector who was sent to enquire into the matter reported in December, 1982 that "one Bimala Rami Dutta stated to be his first wife told me that the two other wives are not legally married, but her husband had kept them in this Railway quarters and got children by them." (Annexure - B). The Applicant in the instant Application claims to be the daughter of the second wife of the deceased employee. The final settlement dues of the deceased employee were paid to the first wife of the deceased employee after due enquiry and as per records of pass declaration and as per extant rules payment is to be made to the legal wife and heirs. The widow of the employee, Smt. Bimala Rani Dutta also applied for compassionate appointment of her son, Shri Ajit Dutta and he was, accordingly, appointed as Class IV employees (callman) commensurate with his qualifications. The final settlement

dues of late Amar Chand Dutta was paid to this wife Smt. Bimala Rani Dutta through a cheque dated 29.08.1986, but as this was returned without being encashed the payment was made through another cheque dated 07.03.1988. The Applicant is not the legal heir of Late Amar Chand Dutta. Ex-employee was not covered by the Pension Scheme but was under the scheme of Contributory Provident Fund. All dues from this contributory fund were paid to his widow in 1988. The Respondents deny that the applicant ever approached them in the manner stated and would require the Applicant to produce clear proof of the alleged assurance to the release of the dues to her. No such assurance could be given as the dues to the ex-employee were already released in 1988. Simply enclosing some unacknowledged and unsigned copies of undated letters cannot support her claim. There is also no proof of any assurance claimed to have been given by anyone on behalf of the Respondents. Therefore, the Applicant's has no case and the O.A. is liable to be dismissed.

3. Heard Mr B. Sarma, learned Counsel for the Applicant and Dr. M.C. Sarma, learned Railway Counsel for the Respondents. Learned Counsel for the parties has taken me to the various pleadings, evidence and materials placed on records. Learned Counsel for the Applicant submitted that the Applicant is the daughter of the deceased person's second wife and therefore, she should have given share of the family pension. Learned Counsel for the Respondents, on the other hand, persuasively argued that despite the request made to the Applicant's mother, she was not able to produce any documents for her legal right in getting the benefits at the earliest point of time, i.e. 1980's. Therefore, learned counsel for the Respondents submitted that the Applicant's has no legal right for

claiming the benefits. The ex-employee is not governed by Pensionary Scheme.

4. I have given due consideration to the arguments, evidence and materials placed on record. Admittedly, the deceased late Amar Chand Dutta was a gateman who died-in-harness on 21.08.1980. The Applicant has also admitted that she is the daughter of the second wife of the deceased employee. It is true that after the dead of the deceased employee in harness, besides the first wife, Smt. Dulu Rani Dutta and Smt. Sabitri Dutta also claimed for final settlement dues vide their letter dated 27.07.1982. Learned Counsel for the Respondents also produced records available to the Department which reveals that there is no whisper about the 2nd and the 3rd wifes. As per the pass declaration given in 1974 and 1979, the family of the deceased employee was consisted with the following members:-

<u>Name</u>	<u>Relationship</u>	<u>Age (1974)</u>	<u>Age (1979)</u>
1. Smt. Bimala Rani	wife	36 yrs	41 yrs
2. Ajit Ch. Dutta	son	14 yrs	19 yrs
3. Bishnu Ch. Dutta	son	12 yrs	17 yrs
4. Sita Rani Dutta	daughter	4 monts	5 yrs."

Since no other documents are available, the pass declaration was considered as an authentic document. Labour Welfare Inspector in his inquiry report, reported that "One Bimala Rani Dutta stated to be his first wife told me that the two other wives are not legally married, but her husband had kept them in his Railway quarters and got children by them". For better illustration the said report is reproduced below:-

"Sub- F.S. with Late Amar Chand Dutta, Ex-G/Man under PW1-1-GHY. Expired on 21-9-80.

After inquiry, it was reported by then CLW1-GHY Sree Bowmick under his No. LW1/PNO/12-80 dt. 1-12-80 at flagged "A". since Sree Bowmick already retired from service and in his place Sree D. Chakraborty has been posted as CLW1-GHY who was referred this issue vide this office letter dt. 14.7.82 at Flagged "B". The remarks received from D. Chakraborty CLW1-GHY under his No. DC/ANO/6 dt. 15.11.82 is Flagged "C".

Further, an application has been received on 3.8.82 from 2nd wife of Late Dutta. That they had actually 3 wives which is at Flagged "D"

Submitted for orders please as to how the case may be settled up."

It reflects from the record that the Respondents requested all the three ladies to produce legal documents, such as succession certificate from the Court of law for getting the said dues. But they could not do so and a letter dated 30.07.1983 is on record. Since nobody was able to produce the documents from the Court of law, on the basis of evidence and affidavit submitted by the first wife from the Gauhati Court the benefits were disbursed to the first wife. Thereafter, one of her sons was also given employment on compassionate ground.

5. Admittedly, Smt. Bimala Rani Dutta is the first wife of the deceased person and the mother of the Applicant is the second wife of the deceased persons, who died in 1983. The crucial legal question to be considered is whether the second and third wives are entitled to the benefit in preference to the first wife even assuming that the mother of the Applicant is the second wife. The law governing in the Indian Succession Act is that a person professes Hindu religion, can he marry second/third times while his first wife is alive? The legal position is that such marriages are void ab initio. But the child born on such relationship with the second wife may be entitled to get a share.

There is no document to show that the Applicant is the legitimate daughter of the second wife of the deceased employee. Moreover, it is borne out from the evidence and pleadings that deceased ex-employee was not covered by the Pensionary benefit scheme, but was under the Contributory Provident Fund and all dues of contributory fund was paid to his first widow in the year 1988. The document now being pressed by the Applicant in service, is that of a succession certificate (Annexure - 4) dated 30.08.2001, is after the expiry of 21 years of death of the ex-employee. Obviously, that certificate does not reveal that due notice was given to the affected parties. Admittedly, dues (assets) mentioned in that certificate cannot be availed by the Applicant alone since even according to her admission two other ladies were also the wives of the deceased, besides her mother. The said dues (assets) were already disbursed in the year 1988 to the first wife after due enquiry. Moreover, in this Application also, the first and third wives were not impleaded in the party array as respondents. Therefore, the Application is hit by non-joinder of necessary parties. Therefore, the Application will not stand in its legs.

6. It is found that this Application was filed in the year 2005, whereas the deceased late Amar Chand Dutta died on 21.08.1980. Even assuming that the Applicant was three years old in that time, now she is 28 years old. Immediately, after attaining the age of 18 years, she could have filed this Application and even after 10 years of period of delay reckoning from the 18 years of age, she filed this Application. In this count also, this Application will not stand its legs. Therefore, I am of the considered view that the Application is bared by limitation. It is also found that nowhere in the Application disclosed

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that the Applicant is married or not. Learned Counsel for the Applicant was also not able to give information as to whether the Applicant is married or not. If she is married, definitely she will not be entitled to the pensionary benefits as claimed even as per rule notwithstanding the fact that the ex-employee was not governed by Pensionary Scheme. Any interference by the Court will amount to unsettling the settled position after 21 years of the death of the ex-employee.

7. In the conspectus of facts and circumstances and for all the above reasons, I am of the view that the Applicant has not made out a case and therefore, the O.A. to be dismissed. Accordingly, I do so. In the circumstances, no order as to costs.



( K. V. SACHIDANANDAN )  
VICE-CHAIRMAN

/mb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Q.W. 16 NOV 2005

D.A. No. 280 2005

Miss Purnima Dutta

Applicant

VERSUS

The Union Of India & Ors.

Respondents

**SYNOPSIS**

That the applicant has by way of this application raised a grievance against the arbitrary and illegal action on the part of the respondent authorities in not releasing the benefits as receivable by the family of Late Amar Chand Dutta, who was employed under the respondents and who had expired while in service on 21.8.80. The mother of the applicant had made several correspondences with the authorities for release of the service benefits as admissible and for payment of regular family pension. The appeals as preferred by the mother of the applicant evoked no response and ultimately on 29.5.83, she also passed away, leaving the applicant orphaned. The respondent authorities were again approached by the applicant and her near and dear ones, praying for release of the pensionary and other benefits as admissible with regard to the service of Late Amar Chand Dutta. The applicant as per the direction of the

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authorities proceeded to submit documents including succession certificate, to establish the fact that she was the legal heir of Late Amar Chand Dutta. Inspite of the said position, the authorities are yet to process the matter and as a result of which the applicant has been deprived of her legitimate dues. It may be mentioned here that the applicant belongs to the most economically and socially backward section of the society and as such is not in the know how of the official procedures, the respondent authorities being model employees ought to have taken all steps in the matter facilitating the applicant to receive her legitimate dues. Failure on the part of the authorities in acting in the matter with due promptness and the resultant suffering being undergone by the applicant, has caused miscarriage of justice. Left with no other alternative, the applicant has come under the protective hands of your lordships praying for redressal of her grievances

Filed by:-

Sharma

(B. Sharma)  
Advocate.

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16 NOV 2004

गुवाहाटी न्यायालय

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI

O.A. No. 280 of 2004

BETWEEN

Miss. Purnima Dutta

Daughter of Late Amar Chand Dutta, resident of Bonda  
Colony, Guwahati, District-Kamrup.

..... Applicant.

- AND -

1. Union of India, represented by the Secretary  
to the Government of India, Ministry of Railways, Rail  
Bhawan, New Delhi.
2. The General Manager, NF Railways, Maligaon,  
Guwahati.
3. The Divisional Railway Manager (P), NF Railway,  
Lumding, Assam

.... Respondents

DETAILS OF APPLICATION

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

This application is not preferred against any particular order, but has been  
preferred raising a grievance against the action/ inaction on the part of the

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Filed by:- the Applicant  
through → Soniresh Sharma  
Advocate.

respondents authorities in not releasing the pension and other dues as receivable by the applicant in respect of the service rendered by her deceased father Late Amar Chand Dutta, Ex-Gateman, under PWI (I), Guwahati.

**2. JURISDICTION OF THE TRIBUNAL:**

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Court.

**3. LIMITATION:**

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

**4. FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India and as such she is entitled to all the rights protections and privileges guaranteed under the constitution of India.

4.2 That the applicant has by way of this application raised a grievance against the arbitrary and illegal action on the part of the respondent authorities in not releasing the benefits as receivable by the family of Late Amar Chand Dutta, who was employed under the respondents and who had expired while in service on 21.8.80. The mother of the applicant had made several correspondences with the authorities for release of the service benefits as admissible and for payment of regular family pension. The appeals as preferred by the mother of the applicant evoked no response and ultimately on 29.5.83, she also passed away, leaving the applicant orphaned. The respondent authorities were again approached by the applicant and her near and dear ones, praying for release of the pensionary and other benefits as admissible with regard to the service of Late Amar Chand Dutta. The applicant as per the direction of the authorities proceeded to submit documents including succession certificate, to establish the fact that she was the legal heir of Late Amar Chand Dutta. Inspite of the said position, the authorities are yet to process the matter and as a result of which the applicant has been deprived of her

legitimate dues. It may be mentioned here that the applicant belongs to the most economically and socially backward section of the society and as such is not in the know how of the official procedures, the respondent authorities being model employees ought to have taken all steps in the matter facilitating the applicant to receive her legitimate dues. Failure on the part of the authorities in acting in the matter with due promptness and the resultant suffering being undergone by the applicant, has caused miscarriage of justice. Left with no other alternative, the applicant has come under the protective hands of your lordships praying for redressal of her grievances.

4.3 That your applicant states that her father Amar Chand Dutta, was appointed in service under the respondent authorities on 1.10.50 and he was confirmed in his service on 11.7.52. The father of the applicant while working as Gatekeeper, under PWI (I) Guwahati, died in harness on 21.8.80 because of his ailments, leaving behind his wife and the applicant herein as heirs.

A copy of the death certificate is enclosed as  
Annexure-1.

4.4 That your applicant states that at the time of his death, her father had served under the respondents for about 28 years and he was an employee employed in the regular establishment. As such the mother of the applicant approached the respondent authorities for release of the service benefits like PF, Gratuity, Leave Salary etc. alongwith payment of regular family pension. The appeals as made by the mother of the applicant failed to evoke any response from the authorities and ultimately on 29.5.83, the mother of the applicant also passed away leaving the applicant orphaned.

4.5 That as at that relevant point of time the applicant was a minor, the grand mother of the applicant intimated the fact that the mother of the applicant had died on 29.5.83 to the respondent authorities vide her communication dated 13.2.86. The respondent authorities were further requested vide the said communication, to take necessary steps for settlement of the dues as receivable by the heirs of Late Amar Chand Dutta as regards the service rendered by him.

A copy of the communication dated 13.2.86 is annexed as Annexure-2.

4.6 That your applicant states that at the time of the death of her father, she was aged about 3 years and on attaining the age of 9 years, she lost her mother as well. Thereafter, the maternal grand-mother of the applicant took care of the applicant and as such on her behalf, her grand mother approached the authorities several times praying for release of the dues as receivable by the heirs of Late Amar Chand Dutta, but the entreaties as made failed to move the authorities. The grand mother of the applicant provided for the needs of the applicant, by doing household chores in houses of others.

4.7 That your applicant states that as no steps were taken in the matter by the authorities inspite of lapse of considerable period of time, the applicant on attaining majority, personally visited the offices of the respondent authorities praying for an early decision in her case. The applicant in addition to making verbal appeals also preferred representations before the respondent No. 3 highlighting her plight and praying for release of the dues as receivable by her.

Copies of the representations as preferred by the applicant are annexed as Annexure-3 series.

4.8 That in the year 2001, on one of her visits to the offices of the respondent authorities, she was directed to produce a succession certificate from a competent court of law, which was stated to be required for further processing of her case and for payment of her dues. The applicant then, by borrowing money from her near and dear ones, applied for issuance of a succession certificate with regard to the estate of Late Amar Chand Dutta. The District Judge, Kamrup, Guwahati on consideration of all aspects of the matter was pleased to issue in favour of the applicant a succession certificate on 30.8.2001 entitling her to the estate of Late Amar Chand Dutta. As advised, the applicant did not incorporate the amount receivable by her by way of the family pension, inasmuch as she was not in a position to bear the required expenses for submission court fees for the said amount

also. But, the applicant being the surviving legal heir of Late Amar Chand Dutta, she is entitled to receive the accrued family pension as well as regular monthly pension as permissible under the Rules holding the field. The officials working under the Respondents supplied the details of the amounts as mentioned in the said succession certificate to the applicant.

A copy of the said succession certificate dated 30.8.2001 is annexed as Annexure-4.

4.9 That the applicant states that on receipt of the said Annexure-3<sup>4</sup> succession certificate, she proceeded to submit the same before the respondent authorities and she was assured that, she having produced proof of being the legal heir of Late Amar Chand Dutta, the dues as receivable by the legal heir of Late Amar Chand Dutta, would be released to her soon. The applicant was also under the bonafide impression that her legitimate dues would be released to her without any further delay.

4.10 That your applicant states that her grand mother because of advance age and the ailments being suffered by her for some time past is constantly bedridden and as such the burden for maintaining her has fallen on the shoulders of the applicant. The applicant by working as house help is somehow managing their day to day needs. The condition that the applicant finds herself in today is the creation of the respondent authorities due to the failure on their part in taking prompt steps towards clearing the dues as receivable by the applicant.

4.11 That as gathered by the applicant, there was no departmental enquiry pending against her father at the time of his death and no orders have been issued towards recovery of any amount from him, requiring withholding of his due service and pensionary benefits. As such the inaction on the part of the authorities in not releasing the benefits as due to the applicant is only due to sheer negligence and administrative lethargy. There being no any cogent cause or reason justifying the delay in settling the dues as receivable by the applicant, the authorities are duty bound to compensate her for the delay so occasioning, by paying to her interest on the amounts due.

4.12 That the applicant and her grandmother had taken all possible steps, as far as possible on their part for pursuing their claims before the authorities and on getting time from the work being done by her, the applicant approached the authorities praying for settlement of her dues and she was all along assured that the claims were being processed and would be settled. The assurances as held out have turned out to be a hollow one and as such left with no other alternative, the applicant has come under the protective hands of Your Lordships praying for redressal of her grievances.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the impugned action/inaction on the part of the respondent authorities, in not releasing the due service benefits pertaining to the service of Late Amar Chand Dutta, to the applicant and in not releasing to her family pension has caused miscarriage of justice.

5.2 For that Late Amar Chand Dutta being a regular employee in the rolls of the respondent authorities and he having completed the qualifying period of service required for being entitled to receive pension and other pensionary benefits, denial of the due pensionary benefits to his legal heirs has resulted the rights of the applicant being infringed.

5.3 For that there being no departmental enquiry pending against Late Amar Chand Dutta at the time of his death and there being no order withholding his pension, the respondent authorities could not have denied to be applicant her legitimate dues being the legal heir of Late Amar Chand Dutta.

5.4 For that in any view of the matter the action/inaction on the part of the respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

**6. DETAILS OF REMEDIES EXHAUSTED:**

The applicant declares that She has no other alternative and efficacious remedy except by way of filing this application. She is seeking urgent and immediate relief.

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

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

**8. RELIEFS SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

- 8.1 To direct the respondent authorities to release the amounts as mentioned in the Annexure-4 Succession Certificate and any other amount that may be due to her in respect of the services rendered by her father under the Respondents.
- 8.2 To direct the respondent authorities to release to the applicant the arrears of family pension due to the heirs of Late Amar Chand Dutta, pending w.e.f 21.9.80 and to ensure prompt payment of due monthly family pension to the applicant.

✓  
✓

8.3 To direct the respondents to pay to the applicant interest @ 21 % per annum on the amounts due to the applicant being the legal heir of late Amar chand Dutta w.e.f 21.8.80 till the date of actual payment of the same.

8.4 Cost of the application.

8.5 Any other relief/ reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may deemed fit and proper by this Hon'ble Tribunal upon consideration of the facts and circumstances of the case.

**9. INTERIM ORDER PRAYED FOR:**

The applicant in view of the facts and circumstances of the case does not pray for any interim direction at this stage and only prays that this Hon'ble Tribunal be pleased to dispose of this application expeditiously.

10. ....

The application is filed through advocate.

**11. PARTICULARS OF THE I.P.O.:**

- i) I.P.O. No. : 266 318978
- ii) Date : 14-11-05
- iii) Payable at: Guwahati.

**12. LIST OF ENCLOSURES:**

As stated in the Index.

Verification...

2

VERIFICATION

I, Miss Purnima Dutta, aged about 28 years, daughter of Late Amar Chand Dutta, resident of Bonda Colony, Guwahati in the district of Kamrup, Assam, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs 1 to 3, 4.1, 4.2, 4.4., 4.5, 4.6, 4.7, 4.9, 4.10 and 5 to 12 are true to my knowledge, those made in paragraphs 4.3, 4.8 are true to my information derived from the records and the rests are my humble submissions made before this Hon'ble Tribunal.

And I sign this verification on this the th day of November, 2006 at Guwahati.

পুর্ণিমা দত্ত

Signature.

ANNEXURE → 1

ক্রমিক নং 0035023

623



গুৱাহাটী জেল

GOVERNMENT OF ASSAM  
(অসম চৰকাৰ)  
DIRECTORATE OF HEALTH SERVICES  
(স্বাস্থ্য মেডি সপ্লাই কল্যাণ)  
CERTIFICATE OF DEATH  
নিৰ্মলা দেৱী

(উন্নীত মৃত্যুৰ পঞ্জীয়ন আইন ১৯৬৯ নং ১১/১৭ অংশত আিপৰকৰ)

This is to Certify that the following information has been taken from the original record of Death which is in the register ~~date record of June 2001~~ of District ~~Kamrup~~ ~~Registration unit of~~ ~~Kamrup~~ of the State of Assam.  
ইয়াৰ ধাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য অসম বজাৰ ----- জিলা ----- বজাৰ/পৌৰসভাৰ ----- মৌজাৰ অস্তৰ্গত ----- পঞ্জীয়ন পেট্ৰুৰ পঞ্জীয়ন মুল অঞ্চলতেৰে পৰা  
দাওইচ কৰা হৈছে।

AMAR CHAND DUTTA

Name/নাম :

Male

S/o Bip Chand Dutta

Sex/লিঙ্গ :

21st August 1980 (Nineteen Eighty)

Date of Death/মৃত্যুৰ তাৰিখ

Guwahati

Place of Death/মৃত্যুৰ স্থান

1342

PA Kenduguri, Ghy-20

Registration No./পঞ্জীয়ন নং

116/2000

Assam

Date of Registration/পঞ্জীয়নৰ তাৰিখ

Mr. B. C. Choudhury

Chetan

Signature of issuing authority/ধাৰকৰা কৰ্তৃপক্ষৰ চৰ্চা

Designation/পদবী

Assistant Personnel Officer

Date/তাৰিখ

31/7/2001

Signature of Chief Registrar/ধাৰকৰা পঞ্জীয়নৰ চৰ্চাৰ হাম্প

Guwahati

To,

The Divisional Railway Manager, (P)  
N.F. Railway, Lumding.

Ref : No. E/IX/FW-III/80/7/PS  
Final settlement of Dues in respect of  
Late Amar Chand Dutta.

Sub : Information of expiry of claimant  
/wife of late Amar Chand Dutta  
Ex-Gate man under PWI (I) Gauhati  
expired on 21-08-80.

Sir,

With due respect and humble Submission I, beg to state that the claimant of the above referred person i.e. the wife of Late Amar Chand Dutta, Ex-Gate Man Under PWI (I) Gauhati was also expired on 30th may, 1983 leaving her only child (female) namely - Miss Purnima Dutta aged only 9 years.

I, being the mother of the claimant (Dularani Dutta) hereby inform you to settle the dues in respect of the above referred person in my favour accordingly as the left out child Surviving under my care.

This is for your kind information and necessary action.

Yours Faithfully

(Smt. Sarojini Das)  
Mother of late Dularani Dutta  
W/o Late Amar Chand Dutta  
Ex-Gatemen under PWI (I)  
Gauhati.

*Classified to be true Copy*

*Advocate*

Address : Smt. Sarojini Das,  
Vill, P.O Bonda Colony,  
Gauhati, Dist. Kamrup.

To,

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

Sub :- Prayer for payment of final dues of my deceased father  
Late Amar Chand Dutta, Ex-Gate man under PWI/ Ghy.

Respected Sir,

With due respect and humble submission I beg to draw your kind patronage for this helpless father and mother less surviving girl please.

That sir, my father late Amar Chand Dutta who was a gatekeeper under PWI/ Ghy. died on 21st August, 1980 while I was only 3 years old. After the premature demise of my father my w/ mother Dula rani Dutta applied for the settlement dues of my father but before she get the dues has already expired leaving me in this crusal world alone while I was only 6 years old.

That sir, thereafter I have been brought up by my grand mother (maternal) who is alone and does not know the rules and regulation of Rly. administration.

That sir, since there is no earning member in the family of my grand mother we are heardly leaving with hand to mouth as a servent to others.

That sir, I tried to knock every kik and corner for getting the dues of my deceased father and for a job to service in this world in a recent way but no avail.

That sir, lastly a well wishes in your good offices advised me to obtain succession certificate and as such I have obtain succession certificate from Guwahati court which is enclosed herewith for your kind perusal.

I have enough hope that your good self will certainty think for this helpless daughter of a deceased Rly. Employee and do needful so that I may get the dues of my deceased father and will favour me in appointing me in any post of group 'D' under your kind control.

Thanking You, sir, I remain.

Yours faithfully

(PURNIMA DUTTA)  
D/O. Late Amar Chand Dutta,  
Add. C/O. Smti. Sorojoni Das,  
W/O. Late Kamini Das,  
Vill. Bonda Colony,  
P.O. Bonda Colony,  
Guwahati - 781026,  
Dist. - Kamrup, Assam.

*Certified to be true Copy*

*Advocate:*

To,

The Divisional Rly Manager  
Lumding Division,  
P.O. Lumding, N.F.Rly.

Sub :- Prayer for payment of final dues payable to my,  
Late Father Amar Chand Dutta and appointment  
on Category (IV) (Compassionate ground in the Rly.)

Respected Sir,

With reference to the above subject with due respect and humble submission beg to say before you the followings few lines praying for payment of final dues payable to my Late Father Amar Chand Dutta who died on 21st August, 1980 during the service tenure as gate man of PWI, Railway gate No. 3 at Guwahati. After his death my mother surviving widow living with me, my minor aged about 4, 1/2 and 1, 1/2 years respectively and there is none to look after us, my late father was a poor paid employee for which he could not make any arrangement for our permanent livelihood during his life time, there after my mother was a very poor and only earning by daily labour, for which he could not make any other income, after that my mother Dula rani Dutta, w/o Amar Chand Dutta. She was died on 29th May, 1983. Thereafter my minor aged about still to-day with only my grand mother, named Smti. Sorojini Das, w/o Late Kamini Das, Village- Bonda Colony, P.O. Bonda Colony, Guwahati - 26 respectively and there is none to look after us. Now my grand mother has 72 years old and very poor person. She could not make any other arrangement for my permanent livelihood. That sir, I am a only Girl (Daughter) of my family, I filled a petition for (the legal heirs of Amar Chand Dutta) claiming payment of last dues of my late father payable to me by the Railway remain unpaid till to-day. None/ Now I am about 22 years old. I am praying your erst while sympathy for my absorption in my class IV, category in the Railway by dint of which I may be able to keep my existence with my life. I will non be out of point to mention that I could not ever submitted my prayer for appointment on compassionate ground also earlier as I quite at a loss position after the death of my father and another.

On the above stated fact stated fact your good self will look into my prayer final dues repayable to my father early absorption in any Class IV, category in the Railway Considering suit-full at your best knowledge and thus oblige there by.

Yours faithfully

(PURNIMA DUTTA)

D/O.- Late Amar Chand Dutta,  
Add.:- C/O. - Smti. Sorojini Das,  
W/O. - Late Kamini Das,  
Vill. - Bonda Colony,  
P.O. - Bonda Colony,  
Guwahati - 781026,  
Dist. - Kamrup, Assam.

*Certified to be true Copy*

*S. Advocate*

To,

The Divisional Railway Manager (P),  
N.F. Railway, Lumding.

Thro : PWI/ 1/ Gauhati.

Reg :- Prayer for appointment on  
Compassionate ground in the Railway.

Sir,

With due respect and humble submission I beg to lay the following for your sympathetic consideration please.

Sir, my husband late Amar Dutta, ex. gatekeeper under PWI/1/Gauhati who died in 21-08-80 before his normal superannuation from the Railway service. After his death I am being the surviving widow living with my two minor daughters aged about 4.5 and 1.5 respectively and there none to look after us. My husband was a poor paid employee for which he could not make any arrangement for our permanent livelihood during his lifetime. Now I am praying your ers+ -while sympathy for my absorption in my class IV category in the Railway by dint of which I may be able to keep my existence with my minor orphan children. It will not be out of point to mentioned that I could not even submit my prayer for appointment on compassionate ground also earlier as I quite at a loss position after the death of my husband from "Cancer".

On the above state fact your good self will look into my prayer for my early absorption in any class IV category in the Railway consideration suit full at your best knowledge and thus oblige thereby.

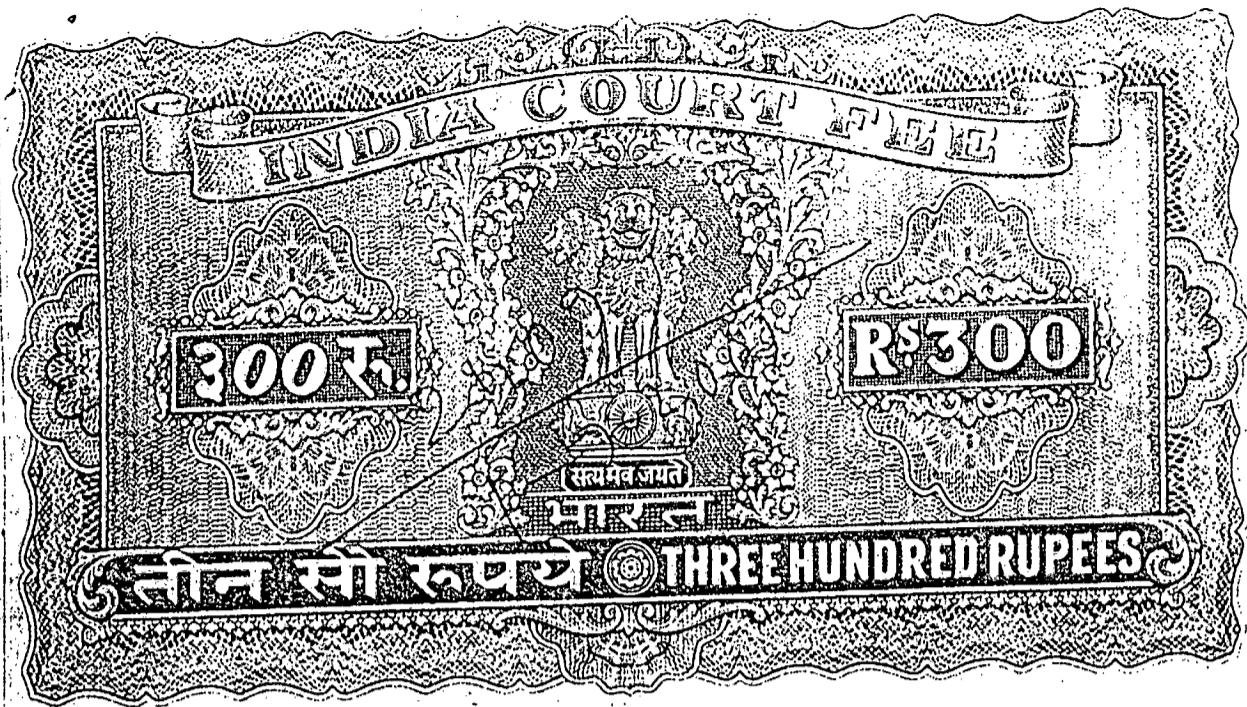
Yours faithfully,

Dated, Gauhati.  
The 7- 9- 1981.

(Dulurani Dutta)  
Widow of late Amar Dutta,  
ex Gatekeeper under PWI/1/GHY.  
C/o. PWI/1/Gauhati.  
N.F.Railway.

*Certified to be true Copy*

  
Advocate



HIGH COURT FORM NO.(J) 55

SUCCESSION CERTIFICATE

(Section 372 of the Succession Certificate Act, 1925.)

IN THE COURT OF DISTRICT JUDGE, FORTUNE, TRANSKEI.

To, .

Smti. Purnima Dutta  
D/O Late Amar Ch. Dutta  
R/O Village & P.O. Ronda Colony  
P.S. Pragjyotishpur, (Panikhity)  
Guwahati-26

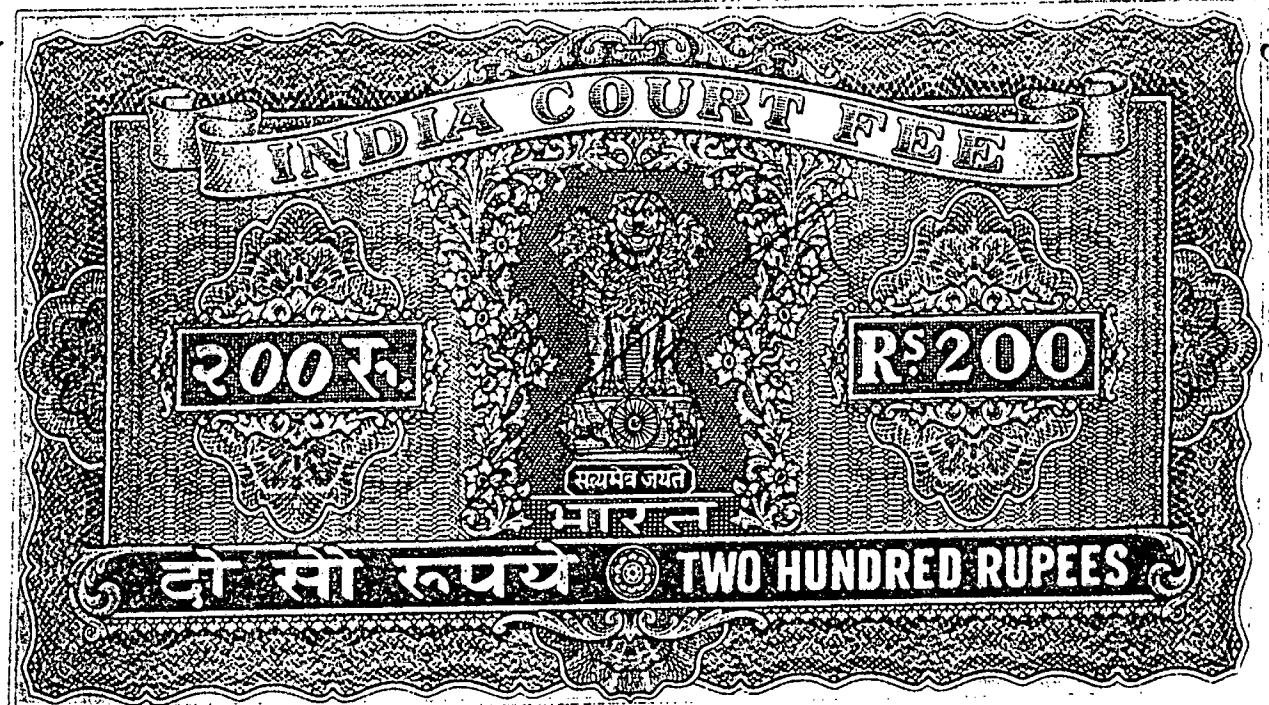
WHEREAS you applied on the 20th day of March, 2001 for a certificate in part 1 of the Indian Succession Act, 1925, in the matter of the estate of Late Amar Ch. Dutta, deceased in respect of the following debts and securities, namely :-

Letter S/C No. 145/2001.



*Serified to be true Copy*

## *Advocate*



-2-

S.I.No.	Name of debtor	Including interest on date of application for certificate	Description and date of instrument, if any, by which the debt is secured.
	Office of the P.W. I/I	Rs. 1,465.00	P.F.
	Railway Gate No.3 at Guwahati (D.E.M-AP/ Lumding N.F.Rly.)	Rs. 6,618.00 Rs. 1,500.00 Rs. 5,000.00 Rs. 400.00 Rs. 6,610.00	Bonus D.L.I.S. R.E.I.S Leave Salary S.C. to P.F.
	Total	Rs. 20,593.00	

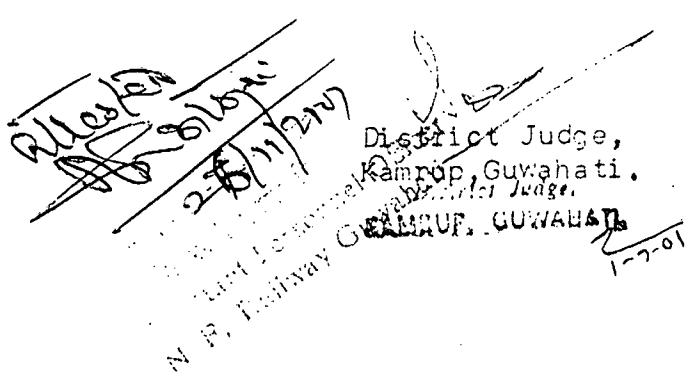
(Rupees twenty thousand five hundred ninety three)only.

This certificate is accordingly granted to you and  
empowers you to collect those debts and-

1. to receive interest or dividends on the sum  
under the certificate
2. to negotiate or transfer
3. both to receive interest or dividends on and  
to negotiate or transfer the securities or  
any of them.

Dated this 30th day of August, 2001.

*Govt*



District Judge,  
Kamrup, Guwahati.

District Judge,

Kamrup, Guwahati.

गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH.

IN THE MATTER OF

O.A.280/05

Smt. Purnima Dutta

... Applicant

Versus

Union of India & Others ...

Respondents

AND

IN THE MATTER OF

Written statement on behalf of the respondents.

The answering respondents respectfully SHEWETH :

1. That the answering respondents have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations as made in the application are hereby emphatically denied and the applicant is put to the strictest proof thereof.
2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those points/allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a proper decision on the matter.
3. That the application is barred by limitation. The records show that the person claimed by the applicant as her father expired on 21.08.1980. After expiry of the employee three ladies claiming to be the wife of the employee applied for payment of the final settlement dues. After considerable delay and after conducting departmental enquiries, the F.S. dues were paid to the first wife of the employee as per rule on 30.08.1984 and on 07.03.1988. It is therefore humbly submitted that the application is barred by limitation under Section 21 of the Administrative Tribunal Act, 1985. The application therefore merits dismissal on this count alone.
4. That the application suffers from want of a valid cause of action. As per records, one Amar Chand Dutta who was working as gatekeeper under PWI/Guwahati died in service on 21.08.1980. The respondents not only paid the late employee's final settlement dues to the proper claimant but also gave employment to one of his sons as claimed. The respondents have therefore duly discharged their

Filed by  
Kiran  
(Dr. M. C. Sarmah)  
Riy, Advocate  
25/3/96

Dr. M. C. Sarmah  
Advocate, Guwahati  
D. M. C. Sarmah, Barrister  
D. M. C. Sarmah, Barrister  
D. M. C. Sarmah, Barrister

Received by  
Riy  
25/3/96

32  
M.J.

obligations to the ex-employee in full as per rule. There is therefore nothing left for the respondents to do at this stage. In view of this, the respondents beg to state that the application deserves to be dismissed for want of a cause of action.

5. That the applicant has tried to mislead the Hon'ble Tribunal by making false claims as also by withholding vital information regarding the action taken by the respondents in clearing the final settlement dues of the ex-employee, facts which the respondents believe were known to the applicant. The facts which are revealed by the submissions of the respondents in the following paragraphs would suffice to prove the point.

**6. Brief history of the case.**

About 26 years ago, that is on 21.08.1980, one Amar Chand Dutta, Gatekeeper under Permanent Way Inspector, Guwahati died of natural causes during his service life. Due to passage of time, full records are not available but copies of correspondence and scraps of other information reveals that after death of the employee one Smt. Bimala Rani Dutta and her children applied for the Final Settlement dues of the late employee. Thereafter, two other ladies, namely Smt. Dulal Rani Dutta and Smt. Sabitri Dutta also claimed the F.S. dues of Late Dutta vide their letter dated 27.7.82.

Copy of this letter dated 27.7.82 is annexed herewith and marked as ANNEXURE A.

As per available records, the pass declaration of the employee given in 1974 and 1979 Late Dutta's family consisted of the following members:

Name	Relationship	Age (1974)	Age (1979)
1. Smt. Bimala Rani	Wife	36 yrs.	41 yrs.
2. Ajit Ch. Dutta	son	14 yrs.	19 yrs.
3. Bishu Ch. Dutta	son	12 yrs.	17 yrs.
4. Sita Rani Dutta	daughter	4 months	5 yrs.

It is submitted that pass declaration is considered authentic record of the family of the employees.

According to a report of the Labour Welfare Inspector who was sent to enquire into the matter reported in December, 1982 that "One Bimala Rani Dutta stated to be his first wife told me that the two other wives are not legally married, but her husband had kept them in his Railway quarters and got children by them".

A copy of the report by the L.W.I is annexed herewith and marked as ANNEXURE B

A perusal of Annexure A of this W.S. will reveal that the applicant of the present O.A. was the daughter of the ~~second~~ lady claiming to be the second wife of the expired employee.

The records as available reveal that the final settlement dues of the deceased employee ~~xxx~~ were paid to the first wife of the deceased employee after due enquiry and as per records of pass declaration as per extant rules which required payment to be made to the legal wife and heirs. In fact a cheque for Rs.10,292/32 sent on 29.8.86 was returned without encashment and another cheque was sent on 7.3.88 for the same amount as final settlement dues to the legally married wife of the employee.

The widow ~~tm~~ of the employee, Smt. Bimala Rani Dutta also applied for compassionate appointment of her son, Shri Ajit Dutta and he was accordingly appointed as class IV employee (callman) commensurate with his qualifications.

### 7. Parawise comments.

7.1. That as regards paragraph 4.1 the respondents have no remarks to offer.

7.2. That as regards paragraphs 4.2 and 4.3, the respondents beg to deny that the applicant had any right to receive any benefit out of the final settlement dues of the deceased employee named Late Amar Chand Dutta as there was no mention of her mother's name in the declaration of family members by the employee when he was alive nor was there any specific nomination of her mother by her alleged father for receiving final settlement dues of the employee after his death as per rule. The claim of the applicant appears to have been the result of an after-thought as can be seen from the death certificate attached as Annexure I of the application which is issued in 2000 for a death which occurred in 1980. The legal heir of Late Amar Chand Dutta was found to be Smt. Bimabha Rani Dutta and the respondents paid the final settlement dues of the employee to her as the legal heir. In addition to that, the eldest son of the employee, Shri Ajit Dutta was appointed on compassionate ground as a class IV employee based on his qualification. Therefore, the respondents are not in a position to provide any relief to the applicant at this stage as no proof was provided by the applicant's mother at the time of the claim that she was legally wedded to the late employee.

It is submitted that the final settlement dues of late Dutta was paid to his wife, Smt. Bimala Rani Dutta

through a cheque dated 29.08.86 but as this was returned without being encashed the ~~exp~~ payment was made through another cheque dated 07.03.88.

A copy of the letter dated 10.03.88 sending the cheque dated 07.08.88 is annexed hereto and marked ANNEXURE C

7.3. That as regards paragraphs 4.4, 4.5, 4.6 and 4.7 the respondents beg to reiterate that as per records the applicant is not the legal heir to late A.C.Dutta. The legal heir of Late A.C.Dutta, his widow Smt. Bimala Rani Dutta was paid the final settlement dues in 1988 as per rule. Moreover, his son Shri Ajit Dutta was provided employment on compassionate ground. Hence the claim of the applicant that her mother or grand mother submitted claim for final settlement dues on her behalf has no relevance whatsoever and appears to be an afterthought to obtain some benefit out of a family dispute. The respondents have no intention to enter into such a dispute.

In this connection the respondents beg to draw attention of the Hon'ble Tribunal to the fact that Annexures ~~1~~, ~~2~~ and 3 of the O.A. has <sup>signature, me</sup> no dates and acknowledgment from the office of the respondents. Hence the annexures are of no value except as a means of misleading the Hon'ble Tribunal.

7.4. That as regards paragraph 4.8, the respondents beg to state that the certificate ~~dated~~ annexed as Annexure-4 is dated 30.8.2001 whereas the final settlement dues of the ex-employee were paid in 1988 as evidenced by Annexure C of this W.S. It is also submitted that the ex-employee was not covered by the Pension scheme but was under ~~an~~ scheme of contributory Provident Fund. All dues from this contributory fund was paid to his widow in 1988.

7.5. That as regards paragraph 4.9, the respondents deny that ~~in~~ the applicant ever approached them in the manner stated and would require the applicant to produce clear proof of the alleged assurance to release the dues to her. No such assurance could be given as the dues to the ex-employee were already released in 1988.

7.6. That as regards paragraph 4.10, the respondents deny that they have anything to do with the condition in which the applicant finds herself as they have fully discharged their liability in respect of the final dues of the deceased employee in 1988. It is for the applicant to settle her family dispute with other members of her family and the respondents have no intention to get involved in these disputes.

W.W.J.

(5)

7.7. That as regards paragraph 4.11, the respondents beg to deny that there was no departmental enquiry regarding the legitimate claimant for the F.S. dues of the deceased employee, namely Late Amar Chand Dutta. It was only after due enquiry that the final settlement dues of Late Dutta were paid to his widow, Smt. Bimala Rani Dutta. The respondents also deny that there was any negligence on its part in dealing with the matter. There is therefore no question whatsoever of paying any compensation to anyone in this matter.

7.8. That as regards paragraph 4.12, the respondents deny that anyone claiming to be the applicant's grandmother approached them on this matter as no documentary proof has been adduced for the same. Simply by enclosing some unacknowledged and unsigned copies of undated letters the applicant cannot support her claim. There is also no proof of any assurance claimed to have been given by anyone on behalf of the respondents. Thus, the respondents beg to state, the claim of the applicant on these matters appear hollow and motivated by merely mercenary interest.

Under the circumstances therefore, the respondents beg to state that they have complied with all the requirements of fairness and justice as far as the final settlement dues of the deceased employee is concerned and that the applicant is not entitled to any relief as proved by the evidence adduced in the paragraphs hereinabove. The O.A. therefore merits dismissal with cost for want of cause of action as well as on account of limitation under section 21 of the Administrative Tribunal Act, 1985.

अधिकारी, आई.सी.  
रामेश,  
District Personnel Officer/IC  
D.P.O., N.T.B., Jaunpur

(6)

VERIFICATION

I, Shri K.P. Singh, son of K.H. Dinemant Singh aged about 34 years and at present working as DPS/IC/16/16/16 N.F.Railway, Lumding, do hereby solemnly affirm that the statements made in paragraphs 1 to 7.8 are true to the best of my knowledge and information derived from records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 20th day of July, 2006.

  
Signature

Designation. कार्यालय, आई. सी.  
पू. सी. रेलवे, लाम्डिंग  
Divisional Personnel Officer/IC  
N. F. Rly., Lumding

31/7/06

To,  
The Divisional Railway Manager (Personnel)  
N. F. Railway, Lumding.

ANNEXURE-A

(7)

✓

Sub :- Final settlement of dues in respect of Late Amar Chand Dutta, Ex. Gateman under PWI/I Guwahati, Expircd on 21-09-1980.

Petitioner : 1) Smt. Dulu Rani Dutta.  
2) Smt. Sabitri Dutta, both wife of  
Late Amar Chand Dutta, C/O Bonda Colony (Refugee)  
Qtr. No. 172, P.O.- Bonda, Dist.-Kamrup.

Sir,

We the undersigned beg to state as follows :-

- 1) That both of us are duly married wives of Late Amar Chand Dutta, who was a Gateman under PWI/I of Guwahati.
- 2) That we have small children from said Late Amar Chand Dutta. The following our issues :-
  - 1) of Dulu Rani - (1) Smt. Purnima Rani Dutta, 6 Years.  
(2) Smt. Jyotsna Rani Dutta, aged 2 Years 6 months.
  - 2) of Sabitri - 1) Smti. Sita Rani Dutta aged 8 years (since died)
- 3) All these children were duly recorded in the Rly. records of Amar Chand Dutta as his children and dependants.
- 4) That another wife Smti. Bimala Rani Dutta is now trying to receive all the dues payable in respect of Late Amar Chand Dutta.
- 5) That we are very poor and helpless and we have been forcefully pushed out of the house (Rly. Qtr.) and Bimala Rani Dutta has been trying to usurp the entire benefit by totally depriving us.

We, therefore, most earnestly pray that your honour may be pleased to take a sympathetic view of the matter and pass necessary orders for apportionment of the dues among the three wives and pending it, to withhold payment of any money alone to Bimala Rani Dutta. We shall ever pray for this act of kindness.

Dated: 27-07-82

Yours faithfully,

Allesleel  
सहायक अधिकारी  
ASSTT. L.A. OFFICER  
N. F. RAILWAY, MALIGAON

27/7/82  
Rly. Adv. auth

Sd/- (Signature)  
1. (Smti. Dulu Rani Dutta)  
2. (RTI of Smt. Sabitri Dutta)

Address:

Bonda Refugee colony, Qtr. No. 172, P.O. Bonda, Dist. Kamrup, Assam.

(8)

ANNEXURE-B.

No. LWI/PNO/12/80.

From: SLWI/PNO

Dated : 1/16-12-80.

TO,  
DRM(P)/Lumding,  
N.F. Railway.

Sub : FS with Late Amar Ch. Dutta, Ex. Gatekeeper  
under PWI/I/GHY.

Ref : Your L/No.EW/1/Misc./Engg./Pen of 24.9.80.

It is learnt that late Dutta, has three wives alive and all of them have got children alive. One Smt. Bimala Rani Dutta, stated to be his first wife told me that the two other wives are not legally married, but her husband had kept them in his Rly. Qtr. and got children by them.

From the pass declaration submitted by Late Dutta in the year 1974 and 79 it is seen that he had not mentioned anything about his second and third wife. His declaration shows that he had the following members.

		<u>Age as shown in 74.</u>	<u>and 79.</u>
1)	Smt. Bimala Rani Dutta, Wife,	36 yrs.	41 yrs.
2)	Shri Ajit Ch. Dutta, Son	14 yrs. <i>approx</i>	19 yrs.
3)	Shri Bishu Ch. Dutta, Son	12 yrs.	17 yrs.
4)	Smt. Sita Rani Dutta, Daughter	4 months.	5 yrs.

Further, as per his application dtd. 12.6.80, the names Rani of his two more daughters Smt. Purnima Dutta, aged 3 yrs. On 1.11.77 and Smt. Joshua Rani Dutta, aged 4(four) months on 10.2.80 were also included in his medical identity card.

PTO

Attested

*JK*  
19/7/80

सहायक विवर अधिकारी  
ASSTT. L.A. OFFICER  
N. F. RAILWAY, MALIGAON

*JKW*  
25.7.80  
Rly. Advocate

(g)

In course of my query Smt. Bimala Rani Dutta, First Wife of Late Dutta, and Shri Ajit Ch. Dutta, eldest son of Late Dutta, told me that Smt. Sita Rani Dutta is the daughter of his second wife and Smt. Purnima Dutta, and Joshua Rani Dutta are the daughter of his third wife.

I discussed the matter with PWI/I/GHY on 28.10.80. He stated that he had also heard the fact and as such he is not willing to sign any FS papers unless it is decided by the competent authority as to who are the legal heirs of Late Dutta.

Since, it is a complicated issue I advise the party concerned to produce an affidavit from the Court of Law stating names relation ship and ages of the legal heirs of Late Dutta, in order to process the case. But they have not yet obtained the same from the Court of Law.

This is for your information and issue necessary instruction to the party concerned.

Sd/- 1.12.80  
(SLWI/PNO).

Attached

MR

19/11/80

OFFICIAL  
N.F. RAILWAY, MALIGAON

(10)

**Office of the Divisional A/Cs  
Officer/N.F. Railway, Lunding.**

(Rgd. A/D)

No. LMG/A/SU/cheque/Misc.

Dated: 10.3.88.

To,  
Smt. Bimala Rani Dutta,  
W/o Amar Ch. Dutt,  
Ex. GK/PWI/GHY, Tokbari Road,  
Railway Gate No. 3, Guwahati - 1.

Sir,

Sub : Railway Cheque.

Ref : Your No. dt. Nil.

Enclosed please find a cheque No. C 986535, dtd. 7.3.88  
for Rs. 10,292.32 issued by this Office in lieu of Cheque No. C278208  
dtd. 29.8.86 which was returned uncashed under cover of your letter  
under reference.

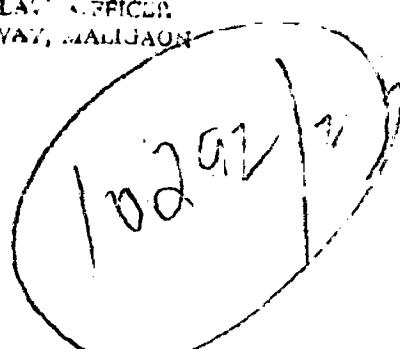
DA : As above.

Yours faithfully,

Sd/-

For Divisional Rly. Accounts Officer  
N.F. Railway, Lunding.

Attested  
MOI  
T. H. O. S.  
सहायक विवि अधिकारी  
ASSTT. LAY. OFFICER  
N. F. RAILWAY, MALIBAON



Mr  
15/3/06  
Rly. Advocate.

W. J. D.