

50/100

a

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T/A No. 295/2006

R.A/C.P No.

E.P/M.A No. 68/2008

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SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
COIMBATUR BENCH:

1. Original Application No. 295/06
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Smt. Chiramai Das & Ors.

Respondant(S) U.O.I & Ors

Advocate for the Applicant(S) Adil Ahmed.....

His S. Bhattacharya...

Advocate for the Respondat(S) Railway Counsel, K.K. Prasad
Mr B.N. Singh, & Mr S.D. Das, for
Respond No 3

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed, C.F. No. 10-
deposited vide Page 2
No. 268/324/93
Dated 15.7.06

For Dy. Registrar
4.12.06

Steps Not Taken

Q1

5.12.06

The applicant No.1 is the wife of late Baneswar Das and applicant No.2 to 5 are the daughters of late Baneswar Das. According to the statement applicant No.1 is the 2nd wife of the deceased with her four daughters. Respondents No.3 is the first wife and No.4 & 5 are her son and daughter. Late Baneswar Was served with Railway as Senior Station Master. After his death his first wife has received pension and other benefits. ~~Along with the~~ children of the second wife have also received some benefits. By this application the applicant has challenged the action taken by the respondents vide Annexure-F order dated 18.7.200 granting some benefits to applicants No.2 to 5. and refusing pension to them.

When the matter came up for hearing the learned counsel for the applicant submitted that he would like to pin point the rule position regarding grant of pension to 2nd wife and her unmarried daughters.

5.12.06

post on 14.12.06 for admission.

Vice-Chairman

pg

14.12.2006

Mr.A.Ahmed, learned counsel for the applicants is present.

Considering the issue involved that of family pension claimed by the unmarried daughters of the second wife of the deceased and the facts discussed in the ~~max~~ order dated 5.12.2006, I am of the view that notice should be issued to the respondents.

Issue notice to the respondents.
post on 25.1.2007.

Vice-Chairman

bb

25.1.2007

Further time is sought for filing of written statement. Let it be done within four weeks.

Post on 28.2.2007.

Vice-Chairman

/bb/

28.2.07.

Post the matter on 28.3.07.

ce
Member

Vice-Chairman

Em

28.3.2007

Considering the issue involved the O.A. is admitted. Six weeks time is granted to the Respondents to file reply statement.

Post on 11.5.2007.

Vice-Chairman

/bb/

Pl. comply order dated 14.12.06

NS
20.12.06.

Notice & order sent to D/Section for issuing to R- 1 to 5 by regd. A/D post.

Cons D/No-14 to 18
2/1/07 DT- 8/1/07-

Notices for resp nos 4 and received back as undeserved with a postal remark "Incomplete add."

18/1/07-

① Service report awaited.

24.1.07

Notice duly served on R-2,3.

6/2/07 No wk has been filed. 27.3.07


05.10.07 * This case was admitted on 20.12.2006. Reply has already been filed in this case, since July, 2007. Mr.S.Nath, Advocate, makes a statement on behalf of Mr.M.Das, learned Counsel appearing for

05.10.2007 It is reported that Mr. Adil Ahmed for the Applicant has been held up at Dibrugarh as he is in bereavement. However, Mr.K.K.Biswas, learned Counsel appearing for the Railways is present.

Call this matter on 10.10.07.

① Wks filed.
② Reply not filed.

9.10.07.


(Khushiram)
Member(A)


(Monoranjan Mohanty)
Vice-Chairman


Im


10. 10.2007

Call this matter on 12.11.07

Reply not filed.

8.11.07.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

12.11.2007

None appears for the Applicant nor the Applicant is present. Mr.A.Ahmed, learned counsel for the Applicant is in accommodation till 12.11.2007. However, Mr.K.K.Biswas, learned counsel for the Railways is present. On his request, this matter is adjourned for hearing on 18.12.2007.

Reply not filed.

17.12.07.


(M.R. Mohanty)
Vice-Chairman

/bb/

11.5.07.

At the request of learned counsel

for the Respondents four weeks time is granted to file written statement.

post the matter on 13.6.07.

No Wks has been
biled.

my

10.5.07.

lm

Vice-Chairman

No Wks has been
biled.

13.6.2007.

Mr.K.K.Biswas, learned Railway

counsel is granted four weeks time to file
reply statement.

12.6.07.

Post on 16.07.2007.

11.7.07

Wks biled to
the Respondents. page
1 to 31. Copy Served.

/bb/

Vice-Chairman

my

17.7.2007

Mr.K.K.Biswas, learned Railway

counsel has filed reply statement. Four
weeks time is granted to Mr.A.Ahmed,
learned counsel for the Applicant to file
rejoinder.

Post on 16.8.2007.

Rejoinder not biled.

13.7.07.

Rejoinder not
biled.

my

11.9.07.

/bb/

Vice-Chairman

12.9.07.

Counsel for the applicant wanted
time to file rejoinder. Let it be done. Post
the matter on 5.10.07.

Rejoinder not
biled.


my

4.10.07.

lm


Vice-Chairman

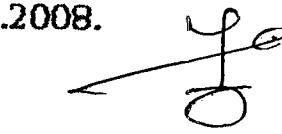
18.12.07 On the prayer of Mr A.Ahmed, learned counsel appearing for the applicant (made in presence of Mr K.K.Biswas, learned Railway counsel) the case is adjourned to 28.01.2008.


(M. R. Mohanty)
Vice-Chairman

pg

28.01.2008 On the prayer of Mr A. Ahmed, learned Counsel appearing for the Applicant, Mr B.N. Sarma, learned Counsel for Respondent No.3 and Mr K.K. Biswas, learned Standing Counsel for the Railways, this case is adjourned to 04.03.2008.


(Khushiram)
Member (A)

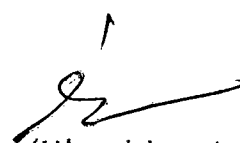

(M. R. Mohanty)
Vice-Chairman

nkm

04.03.2008

Mr.A.Ahmed, counsel for the Applicant and Mr. K. K. Biswas, learned Railway Counsel appearing for the Respondents are present. Counsel for the Applicant wants four weeks time to file Misc. Petition for withdrawal of the case.

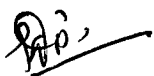
Call this matter on 23.04.2008.


(Khushiram)
Member (A)

Lm

2.1.08

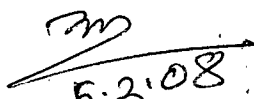
Additional W/S
submitted by the
Respondents. Govt
served.



Rejoinder not
filed.

25.1.08

W/S filed on behalf
of R. No- 3.


5.2.08

Rejoinder not
filed.

3.3.08

Rejoinder not
filed.

22.4.08

23.04.08

Heard Mr A.Ahmed, learned counsel appearing for the Applicants and Mr K.K.Biswas, learned counsel for the Railways/Respondents.

The Applicants have filed M.P.68/08 seeking permission to withdraw this Original Application to approach the appropriate forum for redressal of their grievances. A copy of this Misc.Petition has already been served on Mr K.K.Biswas.


In the aforesaid premises, this Original Application is permitted to be withdrawn with liberty to the Applicants to redress their grievances appropriately.

Misc.Petition 68/08 stands disposed of.

This Original Application stands dismissed being withdrawn.

Send copies of this order to the Applicants and to the Respondents in the address given in the O.A.

Free copies of this order be handed over to the counsel appearing for different parties in this case.


(M.R.Mohanty)
Vice-Chairman

*Received copy
for the Petition 68/08
25-4-08*

28.4.08

*Copy of the order
sent to the Dflee
for deposit the fine
to the Respondents.
C.Cop collected by the
A/Asst for the applicant.*

pg

" NOTICE "

15

From,

Adil Ahmed
Advocate

To,

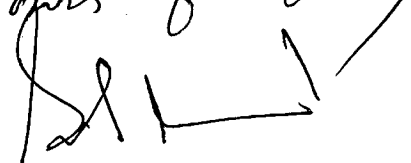
S.C. Biswas
Advocate, N.F. Railway
CAT, Guwahati Bench
Guwahati

Sub - Supply of copy of Misc Case No. --- /2008
in OA No 295 of 2006.

Sir,

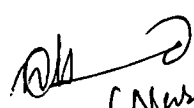
Please find herewith a copy of Misc
Case No --- /2008 in OA No. 295 of 2006
filed by Shri Chirama Das through me
and which will move before this Tribunal
in due course and kindly acknowledge
the receipt of the same.

Thanking You

Yours faithfully

(Adil Ahmed)

Advocate
22/04/08

~~Received by~~
I undertake to serve
the copy to the concerned
Advocate personally.


(Nuruddin Ahmed)
22/04/08

14

"NOTICE"

From,

Adil Ahmed
Advocate

To,

Shri B. N. Sharma
Advocate for the private Respondents
No - 3

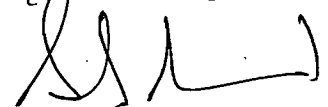
Sub - Supply of copy of Misc Case No - - /2008
in O.A. No. 295 of 2006.

Sir,

Please find herewith a copy of Misc
Case No - - - /2008 in OA No 295 of 2006
filed by Shri Chiranjit Das through me
and which will move before this Tribunal
in due course and kindly acknowledge
the receipt of the same.

Thanking You

Yours faithfully

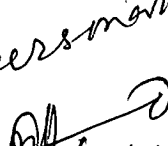


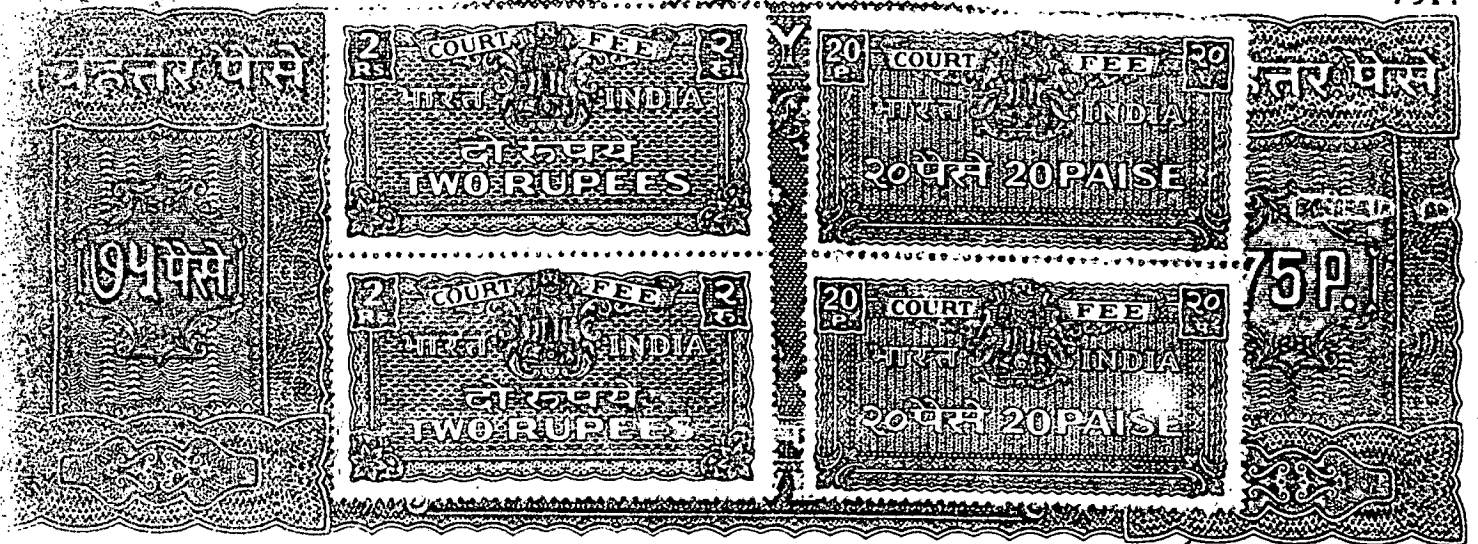
(Adil Ahmed)

Advocate

22/04/08

~~Received by~~
I undertake to serve
the notice to the concerned
Advocate personally


(Nuruddin Ahmed)
22/4/08



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
7/6/2001	7/6/2001	7/6/2001	7/6/2001	7/6/2001

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM NAGALAND MEGHALAYA MANIPUR TRIPURA
MIZORAM & ARUNACHAL PRADESH)

W.P.(C) NO. 3878/2001

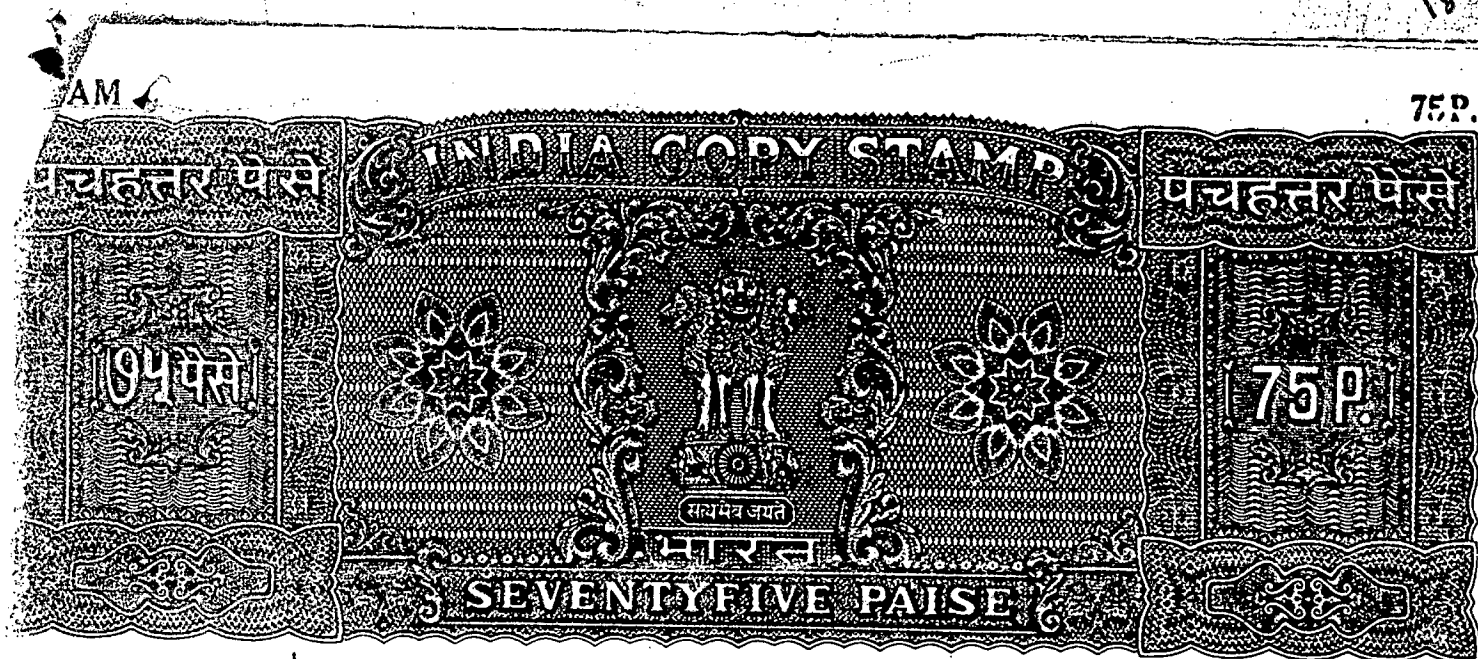
1. Smti Chiramai Das,
Wife of Late Baneswar Das.
2. Smti Boby Das,
Daughter of Late Baneswar Das.
3. Smti Bidyawati Das,
Daughter of Late Baneswar Das.
4. Smti Tutumoni Das,
Daughter of late Baneswar Das.
5. Smti Junmoni Das,
Daughter of late Baneswar Das,
All are residents of village Mahutgaon,
P.O. Mahutgaon, P.S. Simaluguri,
District - Sibsagar, Assam.

17/8/06

-Versus-

...Petitioners.

1. The Union of India
represented by the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
N.E. Railway, Maligaon, Guwahati.
3. The Divisional Railway Manager,
N.E. Railway, Tinsukia, Guwahati.
District - Tinsukia, Assam.
4. Smti Kunjalata Das,
Wife of Late Baneswar Das,
Kumarihati,
P.O. Barpeta, Dist - Barpeta, Assam.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

5. Sri Dharmeswar Das,
Son of late Baneswar Das.
6. Sri Dul Das,
Son of late Baneswar Das,
Both presently resident of
Guwahati Refinery Sector III,
Noonmati, Guwahati,
District -Kamrup, Assam.

... Respondents.

PRESENT.

THE HON'BLE MR JUSTICE A.H. SAIKIA

FOR THE PETITIONER : Mr. PK Barman,
Mrs. D. Das, Advs.

FOR THE RESPONDENTS : G. G. S. C.

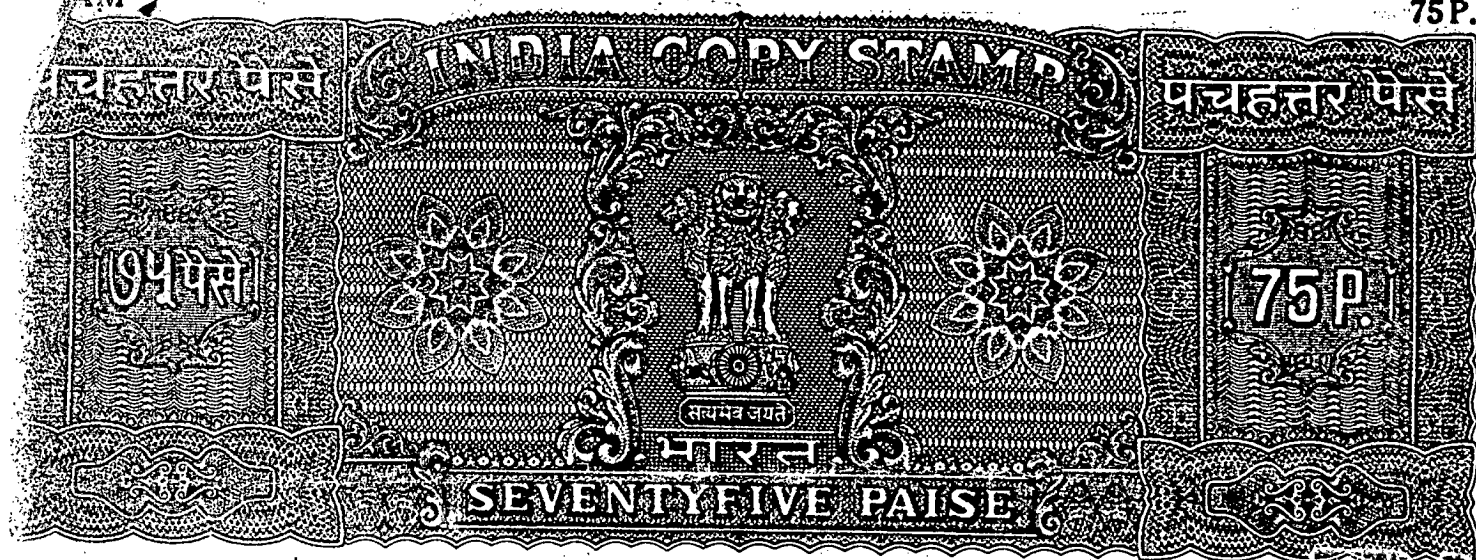
1.6.2001

ORDER

Heard Mr. P. K. Barman, learned counsel appearing on behalf of the petitioners. Also heard Mr. U. K. Nair, learned counsel appearing on behalf of Respondents-Railways.

Mr. Nair, learned counsel accepts notice on behalf of respondents 1 to 3. Petitioners shall take steps for service of notice upon respondents 4 to 6 by registered post.

Let a Notice of motion issue calling upon the respondents to show cause as to why a rule should not be issued as prayed for ; and/ or why such further or other orders should not be passed as to this court may deem fit and proper.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

3.

Notice is made returnable within two weeks.

In the interim, till returnable date the Family Pension shall not be disbursed.

Petitioners shall produce a copy of this order before the competent authority who shall do the needful.

Sd/-A.H.SAIKIA
JUDGE.

62
Link 2001
2001
BY...
7601

Sanctioned to be done by
Kishore Kumar Sharma
Superintendent (G.O.)
CABINET HIGH C
Kushwaha U/S 76 A
7601

1st No 9707
2nd No 6001

20

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO. 298/06

1. a) Name of the Applicant: Shi C. Das
b) Respondants: Union of India & Ors
c) No. of Applicant(s) :-
2. Is the application in the proper form: Yes/No.
3. Whether name & description and address of the all papers been furnished in cause title :- Yes/No.
4. Has the application been duly signed and verified :- Yes/No.
5. Have the Copies duly signed :- Yes/No.
6. Have sufficient number of copies of the application been filed: Yes/No.
7. Whether all the annexure parties are impleaded :- Yes/No.
8. Whether English translation of documents in the Language : Yes/No.
9. Is the application in time :- Yes/No.
10. Has the Vakalatnama/Memo of appearance/Authorisation is filed: Yes/No.
11. Is the application by IPO/BD/For Rs: 5/-264 32499 3
12. Has the application is maintainable :- Yes/No.
13. Has the Impugned order original duly attested been filed : Yes/No.
14. Has the legible copies of the annexures duly attested filed: Yes/No.
15. Has the Index of documents been filed all available: Yes/No.
16. Has the required number of enveloped bearing full address of the respondents been filed: Yes/No.
17. Has the declaration as required by item 17 of the form: Yes/No.
18. Whether the relief sought for arises out of the single :- Yes/No.
19. Whether the interim relief is prayed for :- Yes/No.
20. In case of condonation of delay is filed is it supported :- Yes/No.
21. Whether this Case can be heard by Single Bench/~~Division Bench~~:
22. Any other point:-
23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-
The application is in order.

SECTION OFFICER (J)
4.12.06

DEPUTY REGISTRAR

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

(An Application Under Section 19 of the Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 295 OF 2006.

Smti. Chiramai Das & Others

... Applicants

-Versus-

The N. F. Railway & Others

... Respondents

- I N D E X -

Sl. No.	Annexure	Particulars	Page No.
1	...	Application	1 to 12
2	...	Verification	13
3	A	Photocopy of the Death Certificate issued by the Public Health Department, Assam	14 - 15
4	B	Photocopy of the Judgment dated 4.8.1997 passed by the Hon'ble High Court in Misc. Appeal (First) No. 149/96.	16 - 25
5	C	Photocopy of the Order dated 13.10.1999 passed by the Hon'ble High Court in L.P.A. No. 51/97.	26 - 33
6	D	Photocopy of the succession Certificate dated 23.3.2000	34 - 40
7	E	Photocopy of the application dated 27.4.2000.	41 - 42
8	F	Photocopy of the letter dated 18.7.2000.	43
9	G	Photocopy of the representation dated 21.2.2001.	44
10	H	Photocopy of the letter dated 22.2.2001	45
11	I	Photocopy of Order dated 17.08.2006 passed by the Hon'ble High Court in W.P. (C) No.3878 of 2001.	46 - 49

Date: 4-12-2006.

Filed By:

**Smita Bhattacharjee
Advocate**

श्रीमति चिरमाई दास

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

ORIGINAL APPLICATION NO. 295 OF 2006.

Smti. Chiramai Das & Others

... Applicants

-Versus-

The N. F. Railway & Others

... Respondents

SYNOPSIS:

Applicant No.1 is the wife of Late Baneswar Das Ex. Senior Station Master, Mahutgaon Railway Station, N. F. Railway. The Applicant No.2 to 5 are daughters of Late Baneswar Das and Smti Chiramai Das. Applicant No.2 got married in the year 1999. Baneswar Das died on 08.06.1994 at the age of 49 years, while he was serving as a Senior Station Master, Mahutgaon Railway Station under N. F. Railway, Tinsukia Division. After the death of Baneswar Das, Applicant No.1 came to know that he had earlier married one Shmti Kunjalata Das i.e. Respondent No.3 and out of that wedlock two sons were born i.e. the Respondent No.4 & 5. The Respondent No.4 & 5^{are} now aged about 40 & 39 years respectively. Both of them are well settled. After death of Baneswar Das dispute has arose between Applicant No.1 and the Respondent No.3 regarding Pensionary Benefits of Late Baneswar Das. The Respondent No.3 filed a Misc. (Succession) Case No.67/95 in the court of District Judge, Sibsagar claiming entire dues amount of Late Das. The Applicant No.1 had also filed her objection and cross claim in the aforesaid case. The learned District Judge rejected the claim of Applicant No.1 and delivered the judgment in favour of the Respondent No.3. Being aggrieved by this the instant Applicants filed a Misc. Appeal (First) No.149/96 before the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court vide its order modified the orders of the Successions certificate passed by the learned District Judge, Sibsagar and added the name of the four daughters of i.e. instant Applicant No.2 to 5 to the Succession Certificate. Being aggrieved by this the Respondent No.3, 4 & 5 preferred a letter of Patent Appeal No.51/97 before the Division Bench of Hon'ble Gauhati High Court. The Division Bench of Gauhati High Court dismissed the said Appeal on 13.10.99 and uphold the Judgment of the single Bench of Hon'ble Gauhati High Court passed in Misc. Appeal No.149/96. The learned District Judge of Sibsagar

অসিচিভ হাই দাস.

23

vide its Order dated 23.03.2000 passed Misc.(Succession) Case No.67/95 granted the Succession Certificate to the instant Applicants No.3 to 5. The Applicant No.1 on 27.04.2000 submitted an Application before the Respondent No.2 praying for all dues and Family Pension of Late Baneswar Das in the light of Modified Succession Certificate. The Respondent No.2 vide his letter dated 22.02.2001 informed the Applicant No.1 that she is only entitled to receive Rs.85,518.84 only and the Respondent No.3 will be entitled the Full Family Pension Benefit. Accordingly the Respondent No.2 paid an approximate amount of Rs.60,000/- only in eight installments as a share of four daughters of Late Baneswar Das by deducting an amount of Rs.25,000/- as House Rent for occupation of Railway quarter. Being aggrieved by this the instant Applicant filed a Writ Petition (Civil) No.3878 of 2001 before the Hon'ble Gauhati High Court. The Hon'ble Gauhati High Court vide its Order dated 17.08.2006 held that the subject matter is within the jurisdiction of Central Administrative Tribunal.

Hence this Original Application filed by the Applicants for payment of monthly family pension of Late Baneswar Das with interest thereon to the Applicant No.3 to 5.

অসিচি ডায় দাস ।

1-

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

(An Application Under Section 19 of the Administrative Tribunals Act 1985)

FILED BY

Smti. Chiramai Das

... Applicant No. 1.

Through - Smita Bhattacharya
(Advocate)

22

ORIGINAL APPLICATION NO. 295 OF 2006.

BETWEEN

- 1) Smti. Chiramai Das
Wife of Late Baneswar Das
Resident of Mahutgaon
P.O.-Mahutgaon
P.S.-Simaluguri
District-Sibsagar
Assam.
- 2) Smti Bobby Das
Daughter of Late Baneswar Das
Resident of - Mahutgaon
P.O.-Mahutgaon
P.S.-Simaluguri
District-Sibsagar
Assam
- 3) Smti Bidyawati Das
Daughter of Late Baneswar Das
Resident of - Mahutgaon
P.O.-Mahutgaon
P.S.-Simaluguri
District-Sibsagar
Assam
- 4) Smti Tutumoni Das
Daughter of Late Baneswar Das
Resident of- Mahutgaon
P.O.-Mahutgaon
District-Sibsagar
Assam
- 5) Smti. Junmoni Das
Daughter of Late Baneswar Das
Resident of Mahutgaon
P.O.-Mahutgaon
P.S.-Simaluguri
District-Sibsagar
Assam

... Applicants

-AND -

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

শ্রীমতি বর্ষা দাস

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. _____ OF 2006.

BETWEEN

- 1) Smt. Chitran Das
Wife of Late Banerwar Das
Resident of Mahulgaon
P.O. - Mahulgaon
P.S. - Simulgaon
District - Sibsagar
Assam
 - 2) Smt. Boby Das
Daughter of Late Banerwar Das
Resident of - Mahulgaon
P.O. - Mahulgaon
P.S. - Simulgaon
District - Sibsagar
Assam
 - 3) Smt. Bidyavati Das
Daughter of Late Banerwar Das
Resident of - Mahulgaon
P.O. - Mahulgaon
P.S. - Simulgaon
District - Sibsagar
Assam
 - 4) Smt. Laxmi Das
Daughter of Late Banerwar Das
Resident of Mahulgaon
P.O. - Mahulgaon
District - Sibsagar
Assam
 - 5) Smt. Laxmi Das
Daughter of Late Banerwar Das
Resident of Mahulgaon
P.O. - Mahulgaon
P.S. - Simulgaon
District - Sibsagar
Assam
- Applicants

-AND-

- 1) The General Manager (P)
N. F. Railway, Mahulgaon
Guwahati - II

- 2) The Divisional Railway Manager (P)
N. F. Railway, Tinsukia
District-Tinsukia, Assam.
- 3) Smti. Kunjalata Das
Wife of Late Baneswar Das
Resident of Kumarhati
P.O.-Barpeta, District-Barpeta, Assam.
- 4) Shri Dharmeswar Das
Son of Late Baneswar Das
Resident of Guwahati Refinery Sector-II
Noonmati, Guwahati,
District-Kamrup
Assam
- 5) Shri Dul Das
Son of Late Baneswar Das
Resident of Guwahati Refinery Sector-II,
Noonmati, Guwahati,
District-Kamrup
Assam.

... Respondents

1) **DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This Original Application is made for seeking a direction from this Hon'ble Tribunal to the Respondent No. 1 & 2 for payment of monthly family Pension of Late Baneswar Das, Ex Senior Station Master, Mahutgaon Railway station to his daughters i.e. the Applicant No. 3, 4 & 5.

2) **JURISDICTION OF THE TRIBUNAL:**

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

3) **LIMITATION:**

The Applicants further declare that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

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4) **FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1) That your Applicants are citizen of India and as such they are entitled to all the rights and privileges guaranteed under the Constitution of India and the laws framed thereunder.

4.2) That your Applicant No.1 is the wife of Late Baneswar Das, Ex Senior Station Master Mahutgaon Railway Station, Resident of Mahutgaon, Post Office-Mahutgaon, Police. Station.- Simaluguri, District-Sibasagar, Assam and Applicant No.2 to 5 are the unmarried daughters of Applicant No.1 and Late Baneswar Das. The Applicant No.2 who is the eldest daughter of the same couple got married in the year 1999.

4.3) That your Applicants beg to state that they have got common grievances, common cause of action and the nature of relief prayed for is also same and similar and hence and having regard to the facts and circumstances they intended to prefer this application jointly and accordingly they crave leave of the Hon'ble Tribunal under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987. They also crave leave of the Hon'ble Tribunal and pray that they may be allowed to file this joint application and pause the instant application redressal to their common grievances.

4.4) That your Applicant No.1 begs to state that her husband Late Baneswar Das had served as a Senior Station Master, Mahutaon Railway Station under the Railway Divisional Manager (Personal) N. F. Railway, Tinsukia. Baneswar Das died on 08.06.1994. At the time of his death he was aged about 49 years and was staying at Railway quarter alongwith the Applicants.

ANNEXURE-A is the photocopy of the Death Certificate issued by the Public Health Department, Assam

4.5) That your Applicants beg to state after the death of Baneswar Das, Ex. SSM, she came to know that Baneswar Das earlier got married with one Smti. Kunjalata Das of Barpeta Town in the year 1964. Out of that wedlock Shri Dharmeswar Das and Shri Dul Das the Respondent No. 4 and 5

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respectively, were born. Shri Dharmeswar Das, the respondent No. 4 is now aged about 35 years and earning his livelihood by doing Photostat and other business at Noonmati Guwahati. Shri Dul Das, the Respondent No. 5 is now aged about 34 years and presently working in the Guwahati Refinery as Junior Mechanical Engineer. As such both the sons of Late Baneswar Das through his first wife Smti. Kunjalata Das are having good income source for their livelihood.

4.6) That your Applicant begs to state that during the subsistence of the first marriage with Smti. Kunjalata Das, In the year 1970, Late Baneswar Das got married with Applicant No.1 i.e. Smti. Chiramai Das of Mahutgaon village in Sibsagar District of Assam in accordance to Hindu Religious rites and customs. It is to be stated at the relevant time she was not aware of the earlier marriage of Late Baneswar Das. After marriage with the Applicant No.1, Baneswar Das and Applicant No.1 were living together at Railway Quarter at Mahutgaon till his death. Out of this wedlock four daughters namely Smti Boby Das, Smti Bidyawati Das, Smti Tutumoni Das and Smti Junumoni Das were born to Late Baneswar Das through his second wife Smti Chiramai Das.

4.7) That your Applicants beg to state that immediately after the death of Baneswar Das, some disputes arose between Applicant No.1 i.e. Second wife of Baneswar Das and Respondent No.3 i.e the first wife of Baneswar Das in regard to the payment of Provident Fund money, D.I.L.S., Leave Salary, D.C.R.G., etc as payable to the legal heir of Late Baneswar Das by the Respondent No.1 & 2. The first wife i.e. the Respondent No. 3 filed a Misc. (Succession) Case No. 67/95 in the court of District Judge at Sibsagar claiming entire due amount payable to the eligible family members of Late Baneswar Das which accumulate Rs. 1,49,658.00/- (P.F. Rs. 31,000.00/-, D.L.I.S. Rs. 25,000.00/-, G.I.S. Rs. 35,156.00/-, Leave Salary Rs. 9,502.00/-, D.C.R.G. Rs. 47,000.00/-, and Mics. Rs. 2000.00/-) .The present Applicant No. 1 who came to know about the pendency of the said Misc. (Succession) Case No. 67/95, had filed her objection and a cross claim in the aforesaid case. After filing the objection and a cross claim, the learned District Judge heard both the sides on 26.6.1996 and delivered the Judgment on 17.7.1996 and 14.8. 1996. The learned District Judge, Sibsagar vide its judgment dated

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17.07.1996 and 14.08.1996 rejected the claim of Smti. Chiramai Das and Smti. Kunjalata Das was made eligible to the entire debts of Late Baneswar Das which was to be paid by the Railway Authorities after the death of Late Baneswar Das.

The Applicants crave the leave of this Hon'ble Tribunal to refer to and rely upon the Judgment in the Misc. (Succession) Case No. 67/95 at the time of hearing of this case.

4.8) That your Applicants beg to state that being aggrieved by the judgment of the learned District Judge Sibsagar dated 17.7.1996 and 14.8.1996 passed in Misc. (Succession) Case No. 67/95, the present Applicants filed a Misc. Appeal (First) No. 149/96 on 4.9.1996 before the Hon'ble Gauhati High Court. After hearing the Appeal the Hon'ble High Court vide its Order dated 4.8.1997 passed in the said Misc. Appeal (First) No. 149/96 modified the orders of the Succession Certificate passed by the learned District Judge, Sibsagar and added the names of four daughters of the present Applicant No.1 by the Hon'ble Gauhati High Court. Being aggrieved and dissatisfied with the Judgment and Order dated 4.8.1997 passed by the Single Bench of the Hon'ble Gauhati High Court in Misc. Appeal (First) No. 149/96, the Respondent Nos. 3, 4 & 5 preferred a Letter Patent Appeal being L.P.A. No. 51/97 before the Division Bench of the Hon'ble High Court. After hearing the said L.P.A. No. 51/97 the Hon'ble High Court Division Bench vide its Order Dated 13.10.1999 dismissed the said Appeal and uphold the Judgment of the Single Bench of the Hon'ble Gauhati High Court passed in Misc. Appeal No. 149/96 on 4.8.1997.

ANNEXURE- B is the photocopy of the Judgment dated 4.8.1997 passed by the Hon'ble High Court in Misc. Appeal (First) No. 149/96.

ANNEXURE - C is the photocopy of the Order dated 13.10.1999 passed by the Hon'ble High Court in L.P.A. No. 51/97.

4.9) That your Applicants beg to state that in pursuance to the Judgment dated 4.8.1997 and 13.10.1999 passed in M.A. (F) No. 149/96 and L.P.A. No.51/97 respectively by the Hon'ble Gauhati High Court, the learned

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District Judge, Sibsagar vide its Order dated 23.3.2000 passed in Misc. (Succession) Case No. 67/95 granted the Succession Certificate to Smti. Chiramai Das, the second wife of late Banerwar Das to receive a sum of Rs. 85,518.84/- (Rupees Eighty Five thousand Five hundred eighteen and paise eighty four) only. The said amount was to be paid to the four daughters of late Banerwar Das through his second wife Smti. Chiramai Das, the present Applicant No. 1, Smti. Bobby Das, Smti. Bidyawati Das i.e. Applicant No. 2, Smti. Tutumani Das i.e. Applicant No. 4 and Smti. Junmani Das i.e. Applicant No. 5 were accordingly entitled to receive the above amount of Rs. 85,518.84 as their shares.

The learned District Judge, Sibsagar vide its Order dated 23.03.2000 in Misc. (Succession) Case No. 67/95 empowered the present Applicant No. 1 Smti. Chiramai Das to receive the interest or dividend thereon, to negotiate or transfer and both to relieve interest or dividend on and negotiate or transfer the securities or any of them. After obtaining the copy of the Certificate dated 23.3.2000 in the said Misc. (Succession) Case No. 67/95, the Applicant No. 1 submitted the same before the Divisional Railway Manager, the Respondent No. 2 at Tinsukia for taking necessary action.

ANNEXURE-D is the photocopy of the succession Certificate dated 23.3.2000

4.10) That your Applicants beg to state that on 27.4.2000 the Applicant No.1 submitted an application before the Divisional Railway Manager the Respondent No.2 praying for all dues and family pension in the light of the said Succession Certificate and she also submitted the Succession Certificate, a copy of the Hon'ble High Court Order dated 4.8.1997, photographs of her four daughters, applicant for employment and all official forms.

ANNEXURE- E is the photocopy of the application dated 27.4.2000.

4.11) That your Applicants beg to state that the Divisional Railway Manager, the Respondent No.2 vide his letter No.ES-B-282(FS) dated 18.7.2000 addressed to the DAO/TSK/PF, N.F. Railway send the F.S. Memo for payment of PF money, G.I.S., Leave Salary, in equal shares to the legal heirs of the deceased employee. By the said letter it was asked to

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submit the Guardianship Certificate of Smti. Junumani Das the Applicant No.5, who was a minor at that time. Accordingly the Applicant No.1, mother of Smti. Junmani Das submitted the Guardianship Certificate before the Concerned Authority.

ANNEXURE - F is the photocopy of the letter dated 18.7.2000.

4.12) That your Applicants beg to state that the Applicant No.1 filed a Representation on 21.2.2001 before the Divisional Railway Manager, requesting him to release the pro-rata family pension to her daughters to mitigate their hardship.

ANNEXURE- G is the photocopy of the representation dated 21.2.2001.

4.13) That your Applicant begs to state that the Divisional Railway Manager, the Respondent No. 2 vide his letter No. ES-B/282(FS) dated 22.2.2001 informed the Applicant No. 1 ^{that} as per Succession Certificate issued by the Court of District Judge, Sibsagar on 17.2.2000 full family pension would be paid to Smti. Kunjalata Das the first wife of the deceased and their sons only By the said letter the Applicant No.1 is informed that she is entitled to Rs. 85,518/84/- only as the share of her four daughters.

ANNEXURE-H is the photocopy of the letter dated 22.2.2001

4.14) That your Applicants begs to state that after a long gap of submission of the Succession Certificate the office of the Respondent No. 2 i.e. Divisional Railway Manager, paid an approximate amount of Rs. 60,000.00/- in eight installments as a share of four daughters of late Baneswar Das through his second wife Smti. Chiramai Das, the present Applicant No. 1. The balance amount approximately Rs. 25,000.00/- was deducted as the house rent by the Respondent Railway authorities, against the Railway Quarter where the Applicants family used to stay after the demise of Baneswar Das. After the payment of the said approximate amount of Rs. 60,000.00/- out of Rs. 85,518.84/- the Respondent Railway

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Authorities did not consider to pay the interest which was accumulated against the above amount since the time of death of Baneswar Das on 8.6.1999. Further the Railway Authorities have not considered the prayer of the Applicant No. 1 for payment of the family pension to her unmarried daughters.

4.15) That your Applicants beg to state that being aggrieved by the non-payment of Interest and Family Pension to the unmarried daughters of the Applicant No.1 by the Respondent No.1 and 2, the Instant Applicants approached the Hon'ble Gauhati High Court through Writ Petition (Civil) No. 3878 of 2001. The Hon'ble High Court vide its Order dated 17.08.2006 held that the subject matter involved in the Writ Petition is not under jurisdiction of Hon'ble Gauhati High Court but these are under the jurisdiction of learned Central Administrative Tribunal under Section 14 of the Act. Hence Applicants have approached this Hon'ble Tribunal for seeking justice in this matter.

ANNEXURE-I is the photocopy of Order dated 17.08.2006 passed by the Hon'ble High Court in W.P. (C) No.3878 of 2001.

4.16) That your Applicants state and submit that the Applicants Nos. 3 to 5 who are unmarried daughters of late Baneswar Das through his second wife, Smti. Chiramai Das, the present Applicant No. 1 are entitled to get the share of family pension along with the Respondent No. 3 i.e. the first wife of the deceased, Smti Kunjalata Das. Under the Hindu Law the second marriage is a void marriage as such the second wife is not entitled to get any share of family pension but the children born out of such void marriage are considered and recognized as legitimate children. As such the Applicant No.2 to 5 are legitimate children of late Baneswar Das. The Applicants No. 3 to 5, the unmarried daughters through second marriage of Late Baneswar Das are recognized as legitimate legal heirs of late Baneswar Das to claim their shares of family pension along with the Respondent No. 3. The Hindu Succession Act of 1956 clearly recognized the status of the Applicant Nos. 2 to 5 as Class I legal Heirs along with the Respondent Nos. 3 to 5. The eldest daughter of the deceased i.e. Smti. Bobby Das has already got married and so

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she is not entitled to get any family pension. On the other hand, the Respondent Nos. 4 and 5 who are major and having their own earning source are also not entitled to any pensionary or other benefits.

4.17) That your Applicants states and submits due to non payment of family pension and interest due on the amount of their share by the Respondent Railway Authorities to the Applicants No. 3 to 5, they are passing their days in great hardship and finds it impossible to keep their body and soul together and as such the act of Railway Authorities in this respect is violative of the pension rules, administrative fair play and established procedures of law and practice and as such the Respondent Railway Authorities are liable to pay heavy compensation, interest and cost of the case.

4.18) That your Applicants submits that the Applicant No. 1, the second wife of late Banerwar Das who is presently aged about 53 years and she has no earning source to look after her unmarried daughters and herself after the death of her husband. As a result of such situation the Applicant No. 1 had to maintain her family by taking personal loans and help from her relatives and friends and with such support she has solemnized the marriage of her eldest daughter, Smti Bobby Das with one Rupam Jyoti Mazinder Baruah of Sibsagar Town in the year 1999. Previously due to such economic condition the eldest daughter i.e. Smti. Bobby Das and Applicant No.2 i.e. Smti. Bidyawati Das had to leave their studies in the midst of their college career.

4.19) That your Applicants begs to state that it is a fit case to be interfered by this Hon'ble Tribunal and may be pleased to direct the Respondent Railway Authorities for immediate payment of Interest and the monthly family pension amount to the Applicant No.3 & 5.

4.20) That your Applicants submits that the action of the Respondent Railway Authority is arbitrary, mala fide, whimsical, discriminatory and without jurisdiction.

4.21) That your Applicants submits that the Respondent Railway Authority have violated the Article 14, 16 and 21 of the Constitution of India.

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4.22) That your Applicants submits that the Respondent Railway Authority have violated the Principles of Natural Justice.

4.23) That your Applicants submits that they demanded justice and the same has been denied by the Respondents.

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detailed the action of the Respondents particularly Respondent No.1 & 2 is in prima facie illegal, malafide, arbitrary and without jurisdiction.

5.2) For that, the learned District Judges Court, Sibsagar vide its order dated 23.3.2000 passed in Misc (Succession) Case No. 67/95, has already granted the Succession Certificate in favour of the Applicant No. 1 i.e. Smti. Chiramai Das and her daughters namely Smti Bobby Das, i.e. the Applicant No.2, Bidyawati Das, i.e. the Applicant No.3, Tutumoni Das i.e. the Applicant No.4 and Junmoni Das i.e. the Applicant No.5. As such the Respondents particularly Respondent No.1 & 2 cannot deny the Family Pension Benefits to them..

5.3) For that, Applicant No.3 to 5 who are unmarried daughter of Late Baneswar Das through his second wife, who are also entitled to get the share of Family Pension along with Respondent No.3 under the Hindu Law.

5.4) For that, the Hindu Succession Act. 1956 clearly recognized the status of the Applicant No.2 to 5 as Class I legal heir along with the Respondent No.3 to 5. Hence the Respondents particularly Respondent No.2 and 3 cannot deny the legitimate claim of the Applicant No.3 to 5 to get share in the Family Pension of Late Baneswar Das.

5.5) For that, the Respondents particularly Respondent No.1 & 2 being a model employer cannot deprive the Applicants from their legitimate claim of family pension.

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5.6) For that, the action of the Respondents particularly Respondent No.1 & 2 for non-payment of pensionary benefits and interest thereon to the Applicants are arbitrary, mala-fide and founded on colourable exercise of power and accordingly not sustainable in the eyes of law.

5.7) For that, the Respondents particularly Respondent No.1 & 2 have violated the Articles 14,16 & 21 of the Constitution of India.

5.8) For that, in any view of the matter the action of the Respondents particularly Respondent No.1 & 2 are not sustainable in the eye of law as well as facts.

The Applicants craves 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 and remedy available to the Applicants except the 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 Applicants 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 of suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

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8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to pay the monthly family pension and interest thereon to the Applicant No.3 to 5.

8.2) To Pass any other relief or relieves to which the Applicant No. 3 to 5 may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9. INTERIM ORDER PRAYED FOR:

9.1) At this stage Applicants does not seek any interim relief but if the Hon'ble Tribunal may deem fit and proper may pass any appropriate order or order (s).

10. Application is filed through Advocate.

11. Particulars of I.P.O.:

I.P.O. No. : 26G 324993
Date of Issue : 15-7-2006
Issued from : Guwahati GPO
Payable at : Guwahati GPO.

12. LIST OF ENCLOSURES:

As stated above.

Verification...

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VERIFICATION

I, Smti. Chira Mai Das, wife of Late Baneswar Das, aged about 53 years, Resident of Mautgaon, P.O.-Mautgaon, P.S.-Simaluguri, District-Sibsagar, Assam do hereby solemnly affirm and verify and states as follows :

1. That I am the Applicant No. 1 of this Original Application and as such I am acquainted with the facts and circumstances of the case and I am authorized by the other Applicants to verify this application.

2. That the statements made in paragraph Nos. 4.1 to 4.3, 4.5 to 4.7 and 4.14 — are true to my knowledge, those made in paragraph Nos. 4.4, 4.8 to 4.13, 4.15 — are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph No.5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 4th day of December 2006 at Guwahati.

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DECLARANT

symptoms have corrected the
age in some head work 3x
8/6/94

DISCHARGE SLIP

SIBSAGAR CIVIL HOSPITAL

Name of the Patient :-

B. ANESWAR DAS

Age :-

~~58 years~~ 49 1/2 years

Date of Admission :-

8-6-94

Disease :-

Myocardial Infarction with
Heart Block (complete)

Result :-

The patient expired on 8-6-94
at 6:50 AM

Advice :-

Signature of the M.D.
WATLO 8-6-94
Sibsagar Civil Hospital, Sibsagar

ATTESTED

Bhatta
ADVOCATE

Shatta
ADVOCATE

26.8.97	29.8.97	29.8.97	29.8.97	29.8.97
26.8.97	29.8.97	29.8.97	29.8.97	29.8.97

DISTRICT : SIBSAGAR: -16- ANNEXURE-- B

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur,
Tripura, Mizoram and Arunachal Pradesh)
(CIVIL APPELLATE JURISDICTION : : :)

MISC.APPEAL(FIRST) No.149 OF 1996

From the judgment and order dtd.17.7.96/14.8.96 passed in
Misc.(Succession) Case No.67 of 1995 by the learned District
Judge,Sibsagar.

Smti.Chiramai Das and four others APPELLANTS.

- Versus -

Smti.Kunjolata Das and two others RESPONDENTS.

(Complete cause filed at page 9 & 10)
P R O C E E D I N G S

THE HON'BLE MR.JUSTICE UN SINGH NEELAM :

For the appellants ; Mr.N.Zaman,
Mr.O.Majumdar,
Mr.FK Barman,
Mr.PR Dey, Advocates.

For the respondents: Mr.UN Sharmah,
Mr.K Bhadra,
Mr.Sk Tewari, Advocates.

Date of hearing,

Judgment and order : THE 21ST DAY OF AUGUST, 1997

.....Judgment & order(Oral)...

ATTESTED

Ashatta
ADVOCATE

JUDGMENT AND ORDER (ORAL)

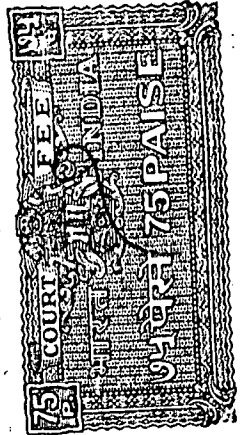
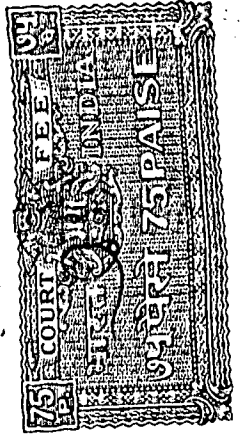
This Appeal is so preferred U/S.384(1) of the Indian Succession Act, 1925 against the judgment and order dated 17.7.96/14.8.96 passed in Misc. Succession Case No. 67/95 by the learned District Judge, Sibsagar granting succession certificate to the applicants- respondents Smti. Kunjalata Das and her two sons, namely, Shri Dharmeswar Das and Shri Dul Das in respect of the securities amounting to Rs. 1,49,658/- which was towards provident fund contributions, D.L.I.S., G.I.S., Leave Salary etc. as detailed by the employer, N.F. Railway, Tingukia after the death of Baneswar Das since deceased.

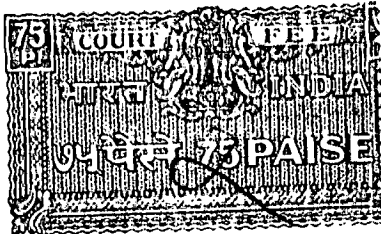
2. Heard Mr. D. Majumdar, the learned counsel for the appellant and Mr. BN Sarma, the learned counsel for the respondent No. 1 Smti. Kunjalata Das and Mr. K. Bhatra and SK Tewari, the learned counsel for Respondent Nos. 2 and 3 who are sons of Smti. Kunjalata Das.

3. Mr. D. Majumdar, the learned counsel for the appellants here has submitted that an application for grant of succession certificate U/S. 372 of the Indian Succession Act, 1925 (hereinafter called the Act) was made by the respondents Smti. Kunjalata and others and the learned court below was pleased to grant the succession certificate (after called the 'certificate') in their favour simply directing as to file indemnity bond as per the provisions of Sec. 374 of the Act. The present appellants, it is submitted by Mr. Majumdar, the learned counsel, were made opposite parties in the said application U/S. 372 of the Act. It is pointed out that in the said S.C. Case the applicant Smti. Kunjalata Das claimed the present appellant to be the concubine of Baneswar Das since deceased and the four daughters being illegitimate daughters whereas on the other hand Smti. Chiramai Das the present appellant in the case claiming herself to be the

ATTESTED

Bshatta
ADVOCATE





the married wife of Banaswar Das, marriage taking place in the year 1970 and not accepting Smti. Kunjalata Das as the wife of Banaswar Das. Evidence were adduced from both the sides. From the appellant's side two of the witnesses were examined - one Kunjalata Das and the other a person claiming to have attended the marriage of Smti. Kunjalata with Banaswar whereas on behalf of the D.P. the evidence of Chiramai Das was taken. It is submitted that the learned Court below has erred in not accepting the story so put forward by the present appellant as objector in the said S.C. Case. Mr. Majumdar has read the provisions of Sec. 373(3) of the Act and has submitted that the intricate matters arising between the parties are not expected to decide in course of a dispute U/S. 373 of the Act because at this stage the Court has only to see with regard to the persons claiming certificate having prima facie case with that of the other persons objecting thereto at the same time claiming such certificate in their favour. In the instant case Mr. Majumdar states that since the present appellant claimed herself to be the wife of the deceased there was no question of declaring her to be concubine and even there is no question of depriving the right of grant of certificate to her four daughters when under the provisions of Sec. 16(1)(3) of the Hindu Marriage Act there is specific provision contained therein that even if a marriage is declared void with regard to the child out of the said wedlock they shall be having the right of succession in the father's property. That being the position, atmost it can be said that the learned court below kept the matter in abeyance for grant of a certificate in favour of the present appellant Smti. Chiramai Das but as regards her four daughters there was prima facie material so made available to the learned court below for grant of a certificate to these four daughters simultaneously with that of four persons

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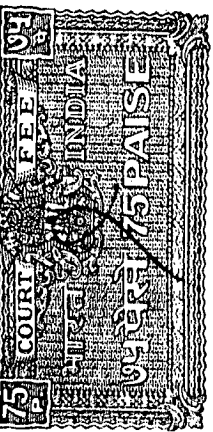
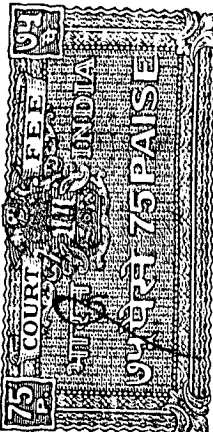
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in whose behalf the certificate at present in this matter be directed to be granted. In support of his this contention Mr. Majumdar, the learned counsel has referred to a reported case AIR 1983 Bombay page 222 (Laxmibai : Nagappa & Ors -^{Matiwadar} vs. -^{Matiwadar} Limbabi / Nagappa). In this regard on behalf of the appellant reference is also made to a letter so issued by the N.F. Railway to Smti. Kunjalata Das as well as to Smti. Chiramai Das with regard to the final settlement of the securities etc. in respect of Baneswar Das, an employee of N.F. Railway, who is dead. In the letter dtd 27.8.95 so issued by the employer, both these ladies, as submitted, were intimated that Rs. 1,49,650/- may be equally distributed amongst the legal heirs of the family of the deceased employee on the production of the certificate from the Court. Mr. Majumdar, the learned counsel submits that if Smti. Chiramai Das does not have any case, there was no question ^{of issuance of} of such letter by the railway authority also in the name of the present appellant. In all fairness, it has been conceded that this intricate question as to whether the appellant was a concubine or not is to be decided in a regular suit to be filed by the party aggrieved but while deciding for grant of certificate as per the provisions of Sec. 373(3) of the Act a prima facie case is made out for grant of certificate to be issued along with the persons in whose names the certificate ^{is} issued by the learned Court below simultaneously with the four daughters of the present appellant and hence this petition.

4. Mr. DR Sarma, the learned counsel for the Respondent No. 1 is also heard at length alongwith the other learned counsel representing Respondents 2 to 5 who also argued on the same line as argued on behalf of Respondent No. 1. On behalf of the respondents thus the submissions so brought in notice are firstly that the present appellants, i.e., Smti. Chiramai Das and her four daughters after the death of Baneswar Das

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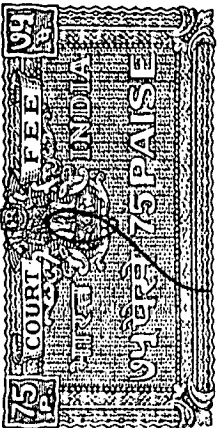
did not prefer or file application for grant of certificate. It was respondents who filed such application and thus in that light the present appellants are not entitled ^{for} to grant of any relief. The second point taken is that in the present appeal so preferred U/S.384(1) of the Act simply the prayer is for setting aside the impugned order granting certificate in favour of the respondents but there is no specific prayer, as submitted, for simultaneously at least granting certificate to the four daughters of appellant No.1 that way too the relief sought for orally in course of argument be thus not considered. Mr.UN Sarma, the learned counsel for Respondent No. 1 has also submitted that under the provisions of Order 41, Rule 1 CEC while preferring the appeal, it was incumbent on the part of the appellants to file certified copy of the impugned order which was not filed and which was necessary to be furnished as per Rule 10(2) of the High Court Rules. Referring to AIR 1992 SC page 1977 (I-A Dhammen -Vs.-Moran Mar Baselius Marthoma) Mr.Sarma has submitted that it was so held that an appeal so preferred without furnishing the certified copy of the order under challenge be thus not entertained. It is also not the case here that at the time of filing of the appeal there was prayer on behalf of the appellant for dispensing with the furnishing of the certified copy of the order under challenge. Lastly, Mr.UN Sarma, the learned counsel has pointed out that the reported case cited AIR 1983 page 222 (supra) is quite distinguishable in the present case because in the present case when ^{the} a specific claim of the respondent was that Smti.Chiramai Das was simply a concubine and in that case the provisions of Hindu Marriage Act with that of the Hindu Succession Act cannot be attracted and the impugned judgment does not suffer from any irregularity or impropriety and on no account it requires thus that the appeal has not no merit

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the same be dismissed. In this connection Mr. Sarma, the learned counsel has also referred to a reported case AIR 1936 Patna page 430 (Mt. Jagtaran -Vs.- Mt. Gaitri Dabi).

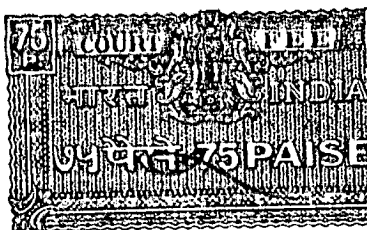


5. After hearing the learned counsel for the appellant and the learned counsel for the respondents, I have carefully gone through the impugned orders dtd. 17.7.96/14.8.96 so passed in SC Case 67/95 by the learned District Judge. I have also taken into consideration the submission so made by the learned counsel representing the appellants and respondents with that of the provisions of law. In the background of the facts and circumstances discussed above, I find that in the instant case the present appellant has also put a case with regard to her marriage taking place sometime in the year 1970 with Ganeshwar Das since deceased leaving no nomination of the benefits from the employer for which a succession certificate was sought for. It seems, the case is peculiar and interesting in which both the ladies that is Smt. Kunjalata Das and Smti. Chiramai Das bring allegation against each other vehemently with regard to the other not being legally wedded wife of the deceased. In the instant case as per the case of Smti. Kunjalata Das ^{(that} she had made a prayer for maintenance because of her husband driving her away from the house and also because of the letter issued to her on 27.5.95 by the authority of the NE Railway wherein the name of Smti. Chiramai Das ~~is~~ also found place, it can well be said that Smti. Kunjalata Das had also a case but the question as to whether the said marriage was valid, void or voidable that is to be decided in a regular suit. But while deciding the matter with regard to grant of certificate, in my considered opinion, the present appellant has made out a

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prima facie case at least for grant of certificate simultaneously in the names of her daughters as well which has not been done. Taking that view I feel that the impugned orders thus require interference. As regards the point so raised on behalf of the respondents that no application for grant of certificate was so filed by Smti. Chiramai Das that way she is not entitled to any relief is not convincing because she was made a party before the learned Court below and the learned Court below had accepted her objection in which she had challenged grant of certificate exclusively to the appellants (applicants of the said petition filed U/S. 372 of the Act). As regards the certified copy of the impugned order not filed before this Court, it transpires that the copy of the said impugned order was subsequently filed in compliance with the direction of this Court. That way, in my considered opinion because of the matter being admitted by the Court on the first day, the issue so made with regard to this appeal being hit under the provisions of Sec. 5 of the Limitation Act has no base because of the specific direction so given by this Court for furnishing the certified copy which was complied with and this matter with regard to the appeal being hit U/S. 5 of the Limitation Act also not pressed just after the appearance of the respondents.

6. In the background of the facts and circumstances discussed above, the impugned order is modified to the extent that the appellants Nos. 2 to 5, who are daughters of Smti. Chiramai Das, be also simultaneously added to be the persons for grant of certificate along with the persons to whom the certificate is already granted by the learned court below. The learned court below is directed as to take

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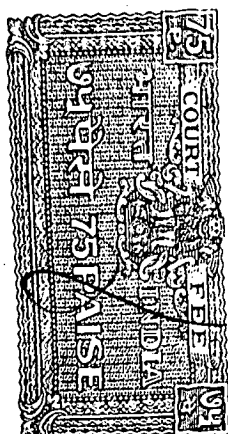
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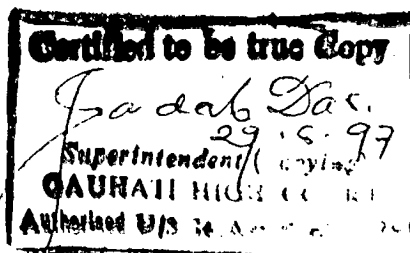
(1) from applicant's assets (2) to S (3) indemnity bond etc. under the provisions of Sec. 375 of the Act. As per the modification indicated above, the Succession Certificate be thus issued by the learned Court below. Stay order, if any, passed by this Court shall stand vacated.

7. Parties to bear their own costs. The matter stands disposed of accordingly.

8. Before parting with it is made clear that the parties are at liberty as to file regular suit for deciding the matters so raised before the learned Court below which cannot be decided going so deep in a succession certificate proceeding as specifically indicated U/S. 373(3) of the Indian Succession Act.



Sd/- B.V. Singh Nulam
for



29/5/97

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- And -

IN THE MATTER OF :

1. Smtl. Chiramai Das,
W/o Lt. Banerwar Das,
Resident of Vill. Mahutgaon,
P.O. Mahutgaon, P.S. Simaluguri,
Dist. Sibsagar, Assam.
 2. Smtl. Bobi Das,
Lt.
D/o/Banerwar Das.
 3. Smtl. Bidyawati Das,
D/o Lt. Banerwar Das.
 4. Smtl. Junumani Das,
D/o Lt. Banerwar Das.
 5. Smtl. Tulunmoni Das,
D/o Lt. Banerwar Das.
All residents of Vill. Mahutgaon,
P.O. Mahutgaon, P.S. Simaluguri,
Dist. Sibsagar, Assam.
- Appellant Nos. 3, 4 & 5 being minors
are represented by their natural
guardian Appellant No. 1 their mother.

..... Appellants.

- Versus -

1. Smtl. Kunjalata Das,
Resident of Kumarhati,
P.O. & Dist. Barpeta.
2. Shri Dharmeswar Das,
S/o Kunjalata Das,
Resident of Kumarhati,
P.O. & Dist. Barpeta.

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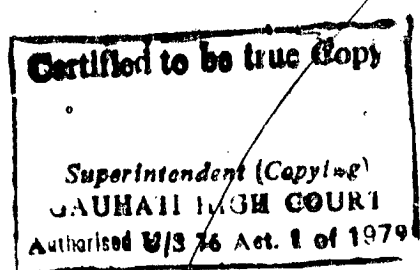
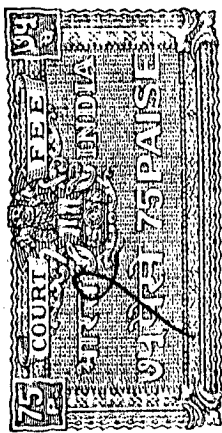
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✓ 3. Shri Dul Das,

S/o Kunjalata Das,

Resident of New Market,

P.O. & Dist. Barpeta, Assam.



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Stamp and Fee संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	अप्राप्त स्टाम्प और फालो देने की तिथि Date of delivery of the requisite stamps and folios.	तारीख, जहाँ तक कि प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
12/55	17/12/55	18/12/55	18/12/55

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ANNEXURE-- C

IN THE GAUHATI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

Letters Patent Appeal No. 51 of 1997

1. Smti. Kunjalata Das,
wife of Late Baneswar Das,
Kumarhati, PO & Dist. Barpeta Town.

..... Appellant.

vs.

1. Smti Chiramai Das,
C/o Late Baneswar Das.
2. Smt. Bobi Das,
D/o Late Baneswar Das.
3. Shri Bidyawati Das,
D/o Late Baneswar Das.
4. Sri Janunani Das,
D/o Late Baneswar Das.
5. Sri Tutumani Das,
D/o Late Baneswar Das.

All are residents of village Mahutgaon,
PO Mahutgaon, PS Simlaguri, Dist. Sibsagar.

.. Respondents.

6. Shri Dharmeswar Das,
S/o Late Baneswar Das.
7. Shri Dul Das,
S/o Late Baneswar Das.

Both residents of Kumarhati,
PO & Dist. Barpeta Town.

.. Proforma Respondents.

P R E S E N T

Hon'ble Mr. Justice NC Jain
Hon'ble Mr. Justice DN Choudhury

For the appellant : Mr. KP Sarma,
Mr. BN Sarma, Advocates.

For the respondents: Mr. D. Hajumdar,
Mr. PK Barman, Advocates.

Date of hearing & judgment 13.10.99

JUDGMENT (ORAL)

JAIN, J:

This appeal has been filed by Smt. Kunjalata Das, wife
of Late Baneswar Das impleading Smt. Chiramai Das and her
four daughters as respondents. The two sons of appellant

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Kunjalata Das have been shown as proforma respondents in the present appeal. For the sake of convenience we would hereinafter refer to Kunjalata Das- appellant and her two sons as first party; whereas respondents No.1 to 5 would be referred as second party.

The first party after the death of one Baneswar Das filed an application u/s 372 of the Indian Succession Act, 1925(hereinafter referred to as 'the Act') for obtaining succession certificate in respect of retiral benefits amounting to Rs.1,49,658/-. The learned District Judge, Sibsagar, granted the succession certificate in favour of the first party. The application was contested by the second party before the District Judge. The second party, feeling aggrieved against the grant of succession certificate filed an appeal under the provisions of section 384 of the Act before this Court. The learned Single Judge by his judgment dated 4th August '97 which has been subjected to a challenge in this letters patent appeal has modified the succession certificate by adding the names of four daughters of respondent Chiramal Das. At the same time the learned Single Judge left the parties to agitate the matter before the Civil Court.

It is pertinent to mention at this stage that the ^{and} appellant/the respondent No.1 in this letters patent appeal were fighting battle for the grant of succession certificate both before the learned District Judge and before the learned Single Judge by describing each other as concubine of Late Baneswar Das. There is practically no dispute as far as we have been able to see regarding the two sons and four daughters of first party and second party being born

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from the womb of Smti Kunjalata Das and Smti. Chiramai Das. The dispute is whether one or the other lady was a concubine or a legally married wife of late Baneswar Das.

The basic question which arises in this appeal before us ^{is} as to whether the direction of the learned Single Judge adding the names of four daughters of Smt. Chiramai Das alongwith the first party is legal or not. Our answer to this question is straightway in favour of the second party. It has come on record in the shape of statement of Smti. Chiramai Das that she had married late Baneswar Das in the year 1970 and that she was living with him till the death of her husband and that during all this period she lived with the husband, four daughters were born. It has further been stated by Smt. Chiramai Das that she did not know about the first marriage of her husband with Smt. Kunjalata Das and about the birth of the two sons from her ^{womb} ~~sewa~~. Whether Smt. Kunjalata Das was a concubine or a legally wedded wife, the same has been left for decision before the Civil Court. We do not find anything wrong with the approach of the learned Single Judge in adding the names of four daughters ^{of Respondent No 1} in the succession certificate alongwith Smt. Kunjalata Das and her two sons. as legitimate sons cannot exclude illegitimate daughters as has been ruled by a Full Bench of Madras High Court in Narayan Ammal and another vs. Govindaswami Naidu, AIR 1975 Madras 275. It has been specifically held that daughter includes an illegitimate daughter and that legitimate son cannot exclude an illegitimate daughter. Even if we assume for a moment that Smti. Chiramai Das was a concubine and was not a legally married wife of Baneswar Das, her daughters born from the loins of Baneswar Das could not be held to be illegitimate for the purpose of

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inheriting the estate of their father. We do not intend to place any reliance upon the Single Bench judgment of Bombay High Court reported in Daddo Atmaram Patil & others vs. Raghunath Atmaram Patil & others, AIR 1979 Bombay 176 wherein the Court was concerned with the interpretation of section 8 of the Hindu Succession Act in a regularly instituted suit. The same considerations would not apply while deciding an application u/s 372 of the Act. In view thereof, the ^{impugned} judgment of the learned Single Judge is unexceptional and deserves to be upheld.

Before parting with the judgment we must take notice of the argument of the counsel for the first party that the appeal of the second party should have been dismissed by the learned Single Judge as barred by time. The appeal was filed by the second party against the judgment of the learned District Judge without certified copy. The appeal was admitted by the High Court without noticing that it ~~was~~ was filed without attaching certified copy. When the certified copy was filed, the appeal was barred by 58 days. It is in these circumstances that the learned counsel has argued with some vehemence that the appeal should be dismissed as barred by time. It has also been argued that no application for condonation of delay was filed. In support of the argument on the point of limitation, the learned counsel has cited P.A. Oommen vs. Moran Har Baselius Marthoma, AIR 1992 SC 1977 and Jagat Dhish Bhargava vs. Jawahar Lal Bhargava & others, AIR 1961 SC 832.

We have given deep thought to the argument of the learned counsel but regret our inability to accept the same. In ^{case} P.A. Oommen (supra) the Apex Court interpreted the provisions of Order 41 Rule 1 which deal with dispensing with filing

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of the copy of the judgment under a seal in certain cases. It was held on interpretation of the relevant provision that the purpose was to cut down expenses and that it has got no bearing on the provisions of Limitation Act. If a suit is dismissed by a common judgment and the appeal is filed by one party accompanied by copy of the judgment, other parties in their appeal could claim exemption under Order 41 Rule 1 and this was the specific point in P.A. Commen(supra). The Apex Court after going through the objects and reasons behind the enactment of order 41 Rule 1 held as under:

"Thus the entire purpose of introducing the above provision was to avoid extra expenses where more cases than one were disposed of by common judgment and the Appellate Court was authorised to dispense with the necessity of filing more than one copy of the judgment. It was no doubt made clear by adding the proviso to Order XLI, Rule 1 CPC that the filing of the certified copies of the judgment could be dispensed with where two or more appeals are filed against the common judgment by the same appellant or by different appellants. The above O XLI, R.1 contained in the Code of Civil Procedure only deals with the provision as to what documents should be accompanied alongwith the memorandum of appeal. This provision has no relevance nor can control the provisions of limitations which are contained separately under the Limitation Act, 1963. Part(III) of the Limitation Act 1963 provides for computation of period of limitation and Section 12 deals with exclusion of time in legal proceedings with which we are concerned in the present case. So far as the case in hand before us is concerned, the admitted facts are that the plaintiffs in O.S.No. 105 of 1980 filed the memorandum of appeal in the High Court against the judgment and decree passed by the Subordinate Judge, Mavalikar dated 27.8.1982. The memorandum of appeal was accompanied by a certified

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copy of the decree as well as a printed copy of the common judgment. We are at pains to understand as to how the appellant can claim any benefit of the proviso to Order XLI, Rule 1 CPC and as a consequence thereof the benefit of the time spent in obtaining the certified copy of the judgment by the plaintiffs of O.S. No.21 of 1979. The proviso permits the Appellate Court to dispense with the filing of more than one copy of the judgment in order to save the expenses, but in the present case the plaintiffs in O.S.No. 105 of 1980 had already filed a printed copy of the judgment of the Subordinate Judge and as such there was no question of seeking any order from the Appellate Court (High Court in the present case) for dispensing with the filing of more than one copy of the judgment. The only question then remains to be considered is whether the appellant is entitled to the benefit of section 12 of the Limitation Act. The appellant and respondents Nos. 6 to 9 who were plaintiffs in O.S.No.105 of 1980 had filed certified copy of the decree under challenge alongwith the memorandum of appeal and the time in obtaining the certified copy of the decree can be excluded in computing the limitation and there is no dispute that such time has been excluded but even after excluding such time the appeal is barred by limitation. So far as the printed copy of the judgment filed with the memorandum of appeal, it does not contain the necessary particulars regarding the persons who made the application, the date of application, the date of issue, the date notified for receiving the same as required in Rules 253 and 254 of the Civil Rules of Practice in order to entitle the appellants to claim extension of time under S.12(3) of the Limitation Act. Confronted with this difficulty, the appellant and other plaintiffs in O.S. No.105 of 1980 sought to rely on the proviso to Order XLI, Rule 1 CPC and to get advantage of the time taken by the plaintiffs in O.S.No.21 of 1979 in obtaining the certified copy of the common judgment. We are clearly of the view that there is no justification nor any basis for claiming such benefit and the High Court rightly dismissed the C.M.P. No.3244 of 1983. It is, however, made clear that we are upholding the judgment

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of the High Court on different grounds and we are not expressing any opinion on the merits of the question of law decided by the learned Single Judge. We also do not find it necessary to advert to any case law referred in the judgment of the High Court or cited before us, as in the facts and circumstances of the case there is no basis of justification at all for the applicability of the proviso to O-XLI, Rule 1 CPC itself. Thus when the main bedrock of the entire case of the plaintiffs/appellants of O.S. No.105 of 1980 falls to the ground the question of seeking any benefit, ~~therefor~~, does not arise".

In the light of the observations made we do not know as to how the judgment of the Apex Court comes to the rescue of the first party in defeating the appeal of the second party on the ground of limitation. In Jagat Dhish Bhargava's case (supra) the facts were that the decree was not drawn up immediately after the judgment and in that situation delay was condoned. This judgment would rather go against the appellant than go in her favour. Forgetting about the judicial pronouncements for the time being, we are of the firm view that in the present case the second party could not be made to suffer by dismissing their appeal on the ground of limitation as no litigant can be made to suffer for the mistake of the Court. This Court admitted the appeal of the second party without noticing that they did not file certified copy. In the present case the learned Single Judge felt satisfied that there was sufficient cause for the second party to file the certified copy of the judgment of the District Judge late by 58 days. The finding recorded by the learned Single Judge is perfectly correct and we are in respectful agreement with the same. Above all, the appeal against the judgment of the learned District Judge was filed

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by the second party in time and it was only the certified copy which was filed late.

For the reasons recorded above, the appeal is found to be devoid of any merit and the same is ordered to be dismissed with no order as to costs.

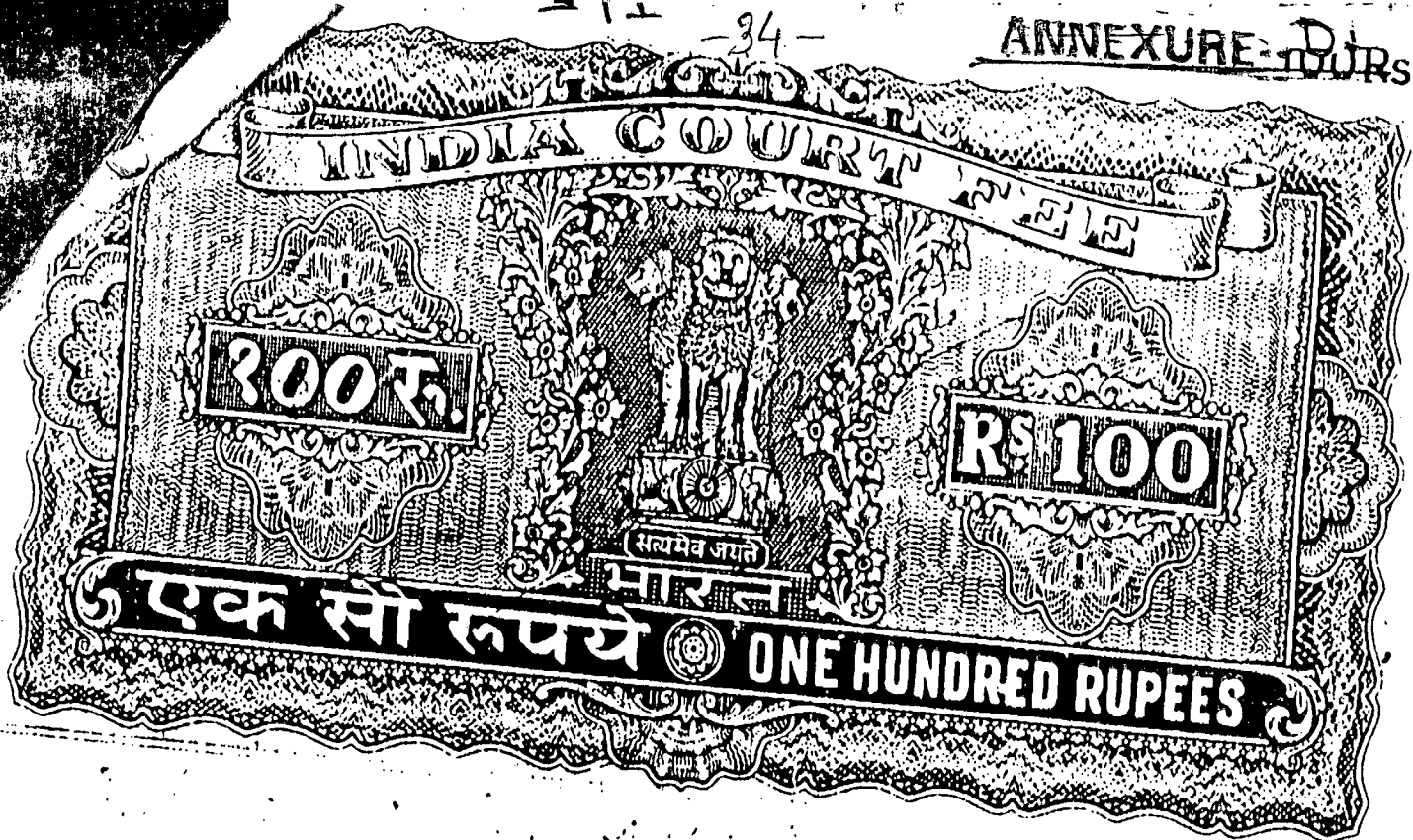
Mr. N. K. Choudhary *Soft N. K. Choudhary*
Meedga *11/12/99*

Deputy Chief Justice
18/12/99

14/12/99

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ADVOCATE



District Judge
Sibsagar

IN THE COURT OF THE DISTRICT JUDGE : : : : AT SIBSAGAR.

Misc. (Succession) Case No. 67/95

Smti. Kunjalata Das

-vs-

..... Petitioner

Smti. Chiramai Das.

..... Opp. party.

District Judge
Sibsagar

Dated this 23rd day of March 2000.

23.3.2000
District Judge
Sibsagar

District Judge
Sibsagar

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ADVOCATE

Filed to be
copy
Advocate



Assam Schedule VII, Form No. 223.

HIGH COURT FORM NO. (J) 55.

SUCCESSION CERTIFICATE

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

IN THE COURT OF THE DISTRICT JUDGE, AT SILSAGUR.

Pisc. (Succ.) N. 67/95.

To,

Smti. Chiramai Das, W/O Late Baneswar Das,
resident of Village Mautagon, P.O. Maut Gon, P.S.
Simaluguri, Dist. Sibsagar.

Whereas you applied on 17.4.95 for a certificate
in Part-I of the Indian Succession Act, 1925, in the matter
of the estate of Late Baneswar Das, deceased, in respect of
the following debts and securities namely :-

D E B T S

Sl.No.	Name of debtor	Amount of debts including inter- est on date of application	Description and date of instruments, if any by which the debt is secured.

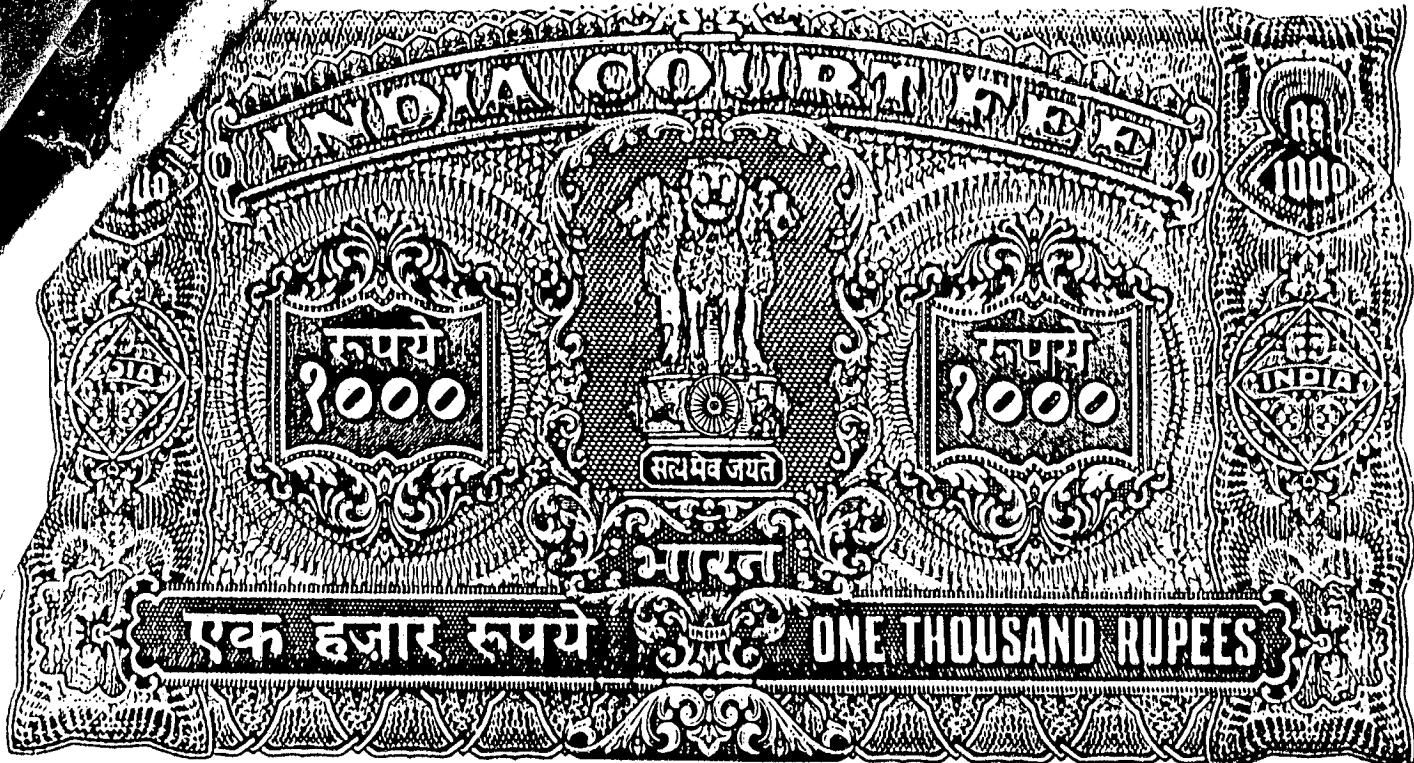
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23.3.2000
District Judge
Sibsagar

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27
23.3.1900
District Judge
Sibsagar

- 2 -

SECURITIES

Sl No	DESCRIPTION			Market value of security on date of application for certificate.
	Distinguishing No or letter of security	Amount or part value of security	Name, title or class of security	

District Judge
Sibsagar

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Bhatta
ADVOCATE



District Judge
Sibsagar

SCHEDULE

1) DRH(P)/TSK

1. P.F.own contribution	Rs. 31,000.00	(Aprox.)
2. D.L.I.S.	Rs. 25,000.00	(")
3. G.I.S.	Rs. 35,156.97	(")
4. Leave Salary	Rs. 9,502.00	(")
5. DCRG	Rs. 47,000.00	(")
6. Misc.	Rs. 2,300.00	(")

Rs. 1,49,659.00

(Rupees one lakh forty nine thousand six hundred fifty eight) only.

District Judge
Sibsagar

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ADVOCATE

Contd..... 4/-



District Judge
Sibsagar

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- 2) Family Pension admissible under the Railway Rule @ Rs. 900.00 w.e.f. 9.6.94 to 8.6.2001 and thereafter Rs. 450.00 plus relief as admissible.

District Judge
Sibsagar

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INDIA COURT FEE

25 Rs.



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Out of the total amount Rs. 1,49,658.00/-
the petitioner is entitled to Rs. 85,518.84 as the
share of her four daughters namely Boby Das, Bidyabati
Das, Junmoni Das and Tutumoni Das.

Distric Judge
Sibsagar

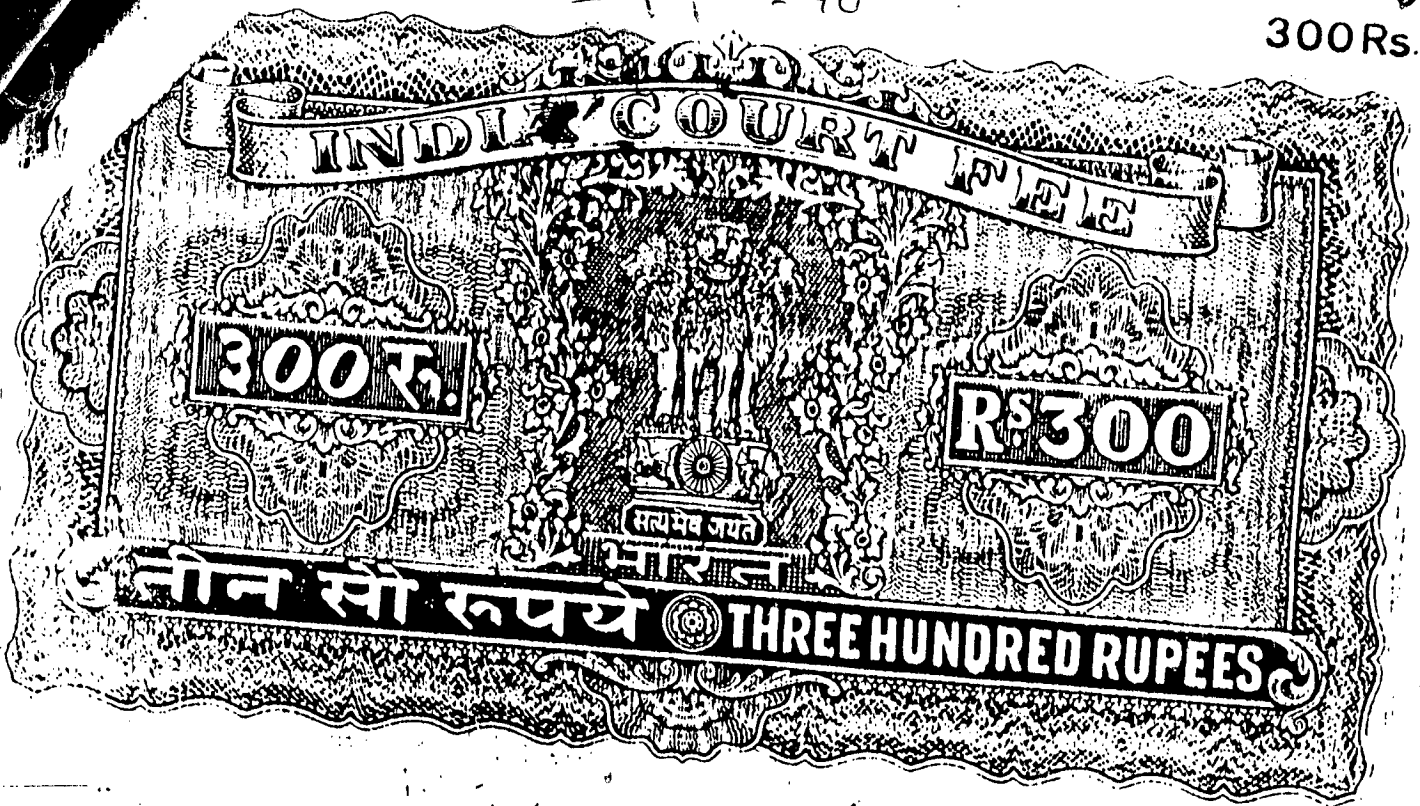
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ADVOCATE

300Rs.



District Judge
Sibsagar

- 6 -

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

1. to receive interest or dividend on,
2. to negotiate or transfer,
3. both to receive interest or dividend on, and negotiate or transfer the securities or any of them.

Dated this 23rd day of March 2000.

District Judge
Sibsagar

ATTESTED

Bhatta
ADVOCATE

ANNEXURE-- E

From :-

Antti Chinmai Das,
W/o. Late Banerwar Das,
Resident of Village Mautgaon
P.O. Mout Gaon, P.S. Simulguri,
Dist: Sibsagar, Assam

Petitioner

To

The Divisional Railway Manager,
N.F. Railway
Tinsukia, Dist. Tinsukia,

Date : 27-04-2000

Reference (SUCC) No. 67/95

In respect of Misc. Appeal (First)
No. 149 of 1996 before the High
Court of Assam

A N D

IN THE MATTER OF A PAYMENT OF DUES OF MY DECEASED
HUSBAND BANESWAR DAS, IN THE LIGHT OF THE JUDGEMENT
AND ORDER DATED 4-8-97 IN MISC. APPEAL CASE NO. 149
OF 1996 IN RESPECT OF MODIFIED SUCCESSION CERTIFICATE
OF MISC. (SUCC) NO. 67/95 ADDING THE HEIRS (DAUGHTERS)
OF THE DECEASED NAMED BOBI DAS, BIDYABATI DAS, JUNUMANI
DAS, TUTUMANI DAS.

1. That, Petitioner's deceased husband was an Railway employee and his dues in his credit was held up by Rly. department in respect of the 1) P.F. Own contribution

- 2) DLIS
- 3) G.I.S.
- 4) LEAVE SALARY
- 5) D.C.R.G.
- 6) MISC.

amounting to total Rs. 1,49,658-00 against all the items mentioned hereinabove, and Family Pension admissible under the Railway Rule Rs. 900.00 w.e.f. 9.6.94 to 8.6.2001 and thereafter relief as admissible Rs. 450.00 plus.

2) That, as per the order of honourable High Court, Gauhati in Misc. (A) No. 149 of 1996 and succession Certificate granted in Misc. (SUCC) No. 67/95, out of Total amount of Rs. 1,49,658.00 the petitioner is entitled to Rs. 85,318-84 as share of four daughters namely Bobi Das, Bidyabati Das, Junmoni Das and Tutumoni Das.

ATTESTED

Bhatter
ADVOCATE

contd...p/2

*Certified to be true copy
Advocate*

- 3) Also, as per para 2 of the schedule of succession certificate granted in Miso. (Succession No. 67/95, the Petitioner is entitled to proportionate rate of Family pension as shares of the abovenamed 4 daughters out of Rft. Total 900/- Per month with effect from 9-6-94 to 6-6-2001 and thereafter Rs. 450.00 plus relief as admissible.
- 4) As per your department's rule for employee one member against the deceased person, It also be request you to give service for one daughter at your department as possible as early.
- 5) That, nonpayment of the above dues your petitioner has to suffer hardship to maintain herself and along with 4 minor daughters also to pay their school dues.

It is therefore prayed and requested that your goodself would pass necessary orders to pay the total amount of Rs. 85,518.10 as shares of the abovenamed 4 daughters also pay the family pension in the light of the succession certificate granted.

Enclosed :-

1. Succession Certificate
2. Copy of Gauhati High Court's Order dated 4-8-97 for perusal.
3. Photograph of 4 Daughters.
4. Application for employment
5. All official forms for dues.

Yours faithfully,

শ্রীমতি চন্দ্রিকা দাস ।
(Smti Chinnami Das)

ATTESTED

Bhutta
ADVOCATE

-43-
N.F. Railway.

ANNEXURE-- F

No. 2510-282 (P.S.)

Office of the
Divil. Rly. Manager(P)/TSM.
Dt. 18.7.2000.

To

DAO/TSM/H.
N.F.Rly.

Subj:- P.S. with Late Banoswar Das, ex- SS/MUGM.

The above named expired on 8.8.94. Due to family disputes the case could not be finalised earlier. The deceased employee got two wives and therefore a disputes has been arisen among the family members.

With the instructions of H.O. both the widows have been informed to submit succession certificate from the court of law and accordingly, both the parties have submitted the succession certificates and legal documents claiming the P.S. dues of their husband.

As per directive of Hon'ble Court, Sibsagar Town all legal heirs of both the widows including the 1st wife will get the P.S. dues of late Banoswar Das, ex- SS/MUGM in equal share. The court has not given the status of 2nd wife for any purpose. The family position is given to the first wife, Smt. Kunja Lata Das, and the legal heirs.

Now the P.S. dues in this case has been issued and sent herewith for payment of P.F. money, GIS, Leave salary in equal share to the following legal heirs.

- | | | |
|-------------|--|--|
| 1st Party:- | 1. Smt. Kunja Lata Das, 1st wife. | |
| | 2. Sri Bharnoswar Das, Son, Major, D/Birth:- 28.11.67. | |
| | 3. Sri Dul Das, Son, Major, -do- 15.5.68. | |
| 2nd Party:- | 4. Miss Baby Das, U/M daughter. -do- 1.1.75. | |
| | 5. " Dityawati Das, -do- -do- 1.1.79. | |
| | 6. " Totemani Das, -do- -do- 1.1.81. | |
| | 7. Junmoni Das, minor daughter. -do- 1.1.85. (minor). | |
| | minor. | |

So, the P.F. money which was credited against the P.L. No. 01275994 of late Banoswar Das, ex- SS/MUGM may be paid in 7(seven) equal shares as per M.O.P. ~~Banking~~ and succession certificate enclosed.

Since, Smt. Junmoni Das, the legal heirs of the 2nd party is minor in age her share may be kept withheld till the Guardianship certificate is submitted by the party.

DA:- As above.

for Divil. Rly. Manager(P)
N.F.Rly, Tinsukia.

Copy to:- Smt. Kunja Lata Das, 1st wife of late Banoswar Das,
Q/O Sri Dul Das, Gaur House, Gauhati Refinery, Noonmati
Gauhati- 20. for information please.

2. Smt. Baby Das, U/M daughter of late Banoswar Das,
Mout Gnan, P.O. Singluri, Dist:- Sibsagar (Assam) for
information please.

ATTESTED

Bhatter
ADVOCATE

for Divil. Rly. Manager(P)
N.F.Rly, Tinsukia.

Certified to
be true copy
Advocate

To

Date : 21/02/2001

The Divisional Manager, (P)
H. P., Rly/ Tinsukia,

Ref No : ES-D-202 (F.S.) dtd: 10/7/2000

Prayer to give prorata Family pension to the
daughters of 2nd Wife of Late Baneswar Das,
(Ex-SS/MUGN).

Sir,

Most Respectfully , I beg to request , you the following
few lines for favour of your necessary orders and actions.

Sir, my four daughters , namely (1) Smti. Baby Das (2)
Smti. Bidyaboti Das (3) Smti. Tutumoni Das, and (4) Junmoni Das
are unmarried and No 3 & 4 are still prosecuting their studies
in college.

The family pension awarded to the members of the legal
heirs of Late Baneswar Das , Ex-SS/MUGN , in respect of the
above named 4 daughters have not been paid by your office.
That, I am in great distress and suffering from financial hardship
to maintain myself and to maintain the above named daughters.

So, I request you kindly to release the pro -rata Family
pensions amount ^{to} daughters of Late Baneswar Das, named above
in order to mitigate the hardship of the daughters .

An early payment & reply of this letter solicited .

Thanking you.

Yours faithfully,

Chiranjit Das

(Chiranjit Das)
MOUTHGAON,

DIST: SIBSAGAR.

दिनांक	को प्राप्त किया
Received on	20.2.2001
भारतीय (कांसिक) का कार्यालय	
Office	
पु. स. रेल विभाग	
N.F. Rly / Tinsukia	

ATTESTED

Bhatta
ADVOCATE

Certified to be
true copy
SSS
Advocate

N.F. RAILWAY.

No. 35-B/222 (F).

To

Office of the
Divil. Rly. Manager (P)/TSK.
Dt. 22.2.2001.Smt. Chira Mai Das,
C/O Sri R.N. Loh (Advocate).
Banshidhar Road, Tinsukia.
I.O. & Post: Tinsukia (Assam).Sub:- Prayer for prerata family pension to the
daughters of 2nd wife of late Banoswar Das,
ex-SS/MUGN.

Ref:- Your representation No. Nil dt. 21.2.2001.

Madam,

In reference to your letter dt. 21.2.2001, it is to inform you that as per succession certification issued by the Hon'ble Court, Sibsagar on 17.2.2000 full family pension as admissible w.o.f. 9.6.91 onward will be paid to Smt. Kunja Lata Das, the 1st wife and her sons only. There is no mentioning for payment of family pension in favour of the daughters of 2nd wife, Smt. Chira mai Das.

Further, in the succession certificate dt. 23.3.2001 issued in favour of you by the Competent Court/Sibsagar only the total amount of F.S. dues of late Banoswar Das, ex- SS/MUGN has been distributed as under :

" Out of the total amount of Rs. 1,49,658/- the Petitioner is entitled to Rs. 85,513.84 as the share of her four daughters namely- Smt. Reby Das, Bidyabati Das, Junmoni Das & Tutumeni Das. "

So, the case has already been processed as per directive of the Hon'ble court of law (i.e. as per succession certificate issued in favour of the both widows/ parties).

This is for your information and necessary action please.

Yours faithfully.

for Divil. Rly. Manager (P)
N.F. Rly, Tinsukia.कुति पंडल रेल प्रबंधक (का.)
For Divisional Railway Manager (P)
यू.पी. रेलवे, तिनसुकिया
N.F. Railway, Tinsukia

Certified to be
true copy
S.S. Das
Advocate

ATTESTED

S. Shatta
ADVOCATE

के लिए आवेदन की तारीख Date of application for the copy	स्टाम्प और फोटो की अपेक्षित संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and photos.	अपेक्षित स्टाम्प और फोटो देने की तारीख Date of delivery of the requisite stamps and photos.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
22/8/06	28/8/06	28/8/06	29/8/06	29/8/06

IN THE GAUHATI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W.P. (C)

3878
No.....of 2001

Smti Chitramai Das. & Co.

Appellant
Petitioner

Versus

Union of India & Co.

Respondent
Opposite-Party

Appellant Mr. P.K. Barman.
For Mrs. S. Das.
Petitioner

Respondent
For C.G.S.L.
Opposite-Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, Reports, orders or proceedings With signature
<p>ATTESTED</p> <p><i>Bhatte</i></p> <p>ADVOCATE</p>			

(2)

IN THE MATTER OF :-

1. Smti. Chiramai Das,
wife of Late Baneswar Das.
 2. Smti. Bobby Das,
Daughter of Late Baneswar Das.
 3. Smti. Bidyawati Das,
Daughter of Late Baneswar Das.
 4. Smti. Tutumoni Das,
Daughter of Late Baneswar Das.
 5. Smti. Junmoni Das,
Daughter of Late Baneswar Das.
- All are residents of Village Mahutgaon,
P.O. Mahutgaon, P.S. Simaluguri,
District - Sibsagar, Assam.

... PETITIONERS

Contd.../-

ATTESTED

Shatta
ADVOCATE

-VERSUS-

1. The Union of India,
represented by the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati.
3. The Divisional Railway Manager,
N.F.Railway, Tinsukia,
District - Tinsukia, Assam.
4. Smti. Kunjalata Das,
wife of Late Baneswar Das,
Kumarhati,
P.O. Barpeta,
District - Barpeta, Assam.
5. Sri Dharmeswar Das,
son of Late Baneswar Das.
6. Sri Dul Das,
son of Late Baneswar Das.
Both presently resident of
Guwahati Refinery Sector III,
Noonmati, Guwahati,
District - Kamrup, Assam.

...RESPONDENTS

Contd.../-

ATTESTED

S. Bhatta
ADVOCATE

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

W.P.(C) No.3878 of 2001

**BEFORE
THE HON'BLE MR. JUSTICE RANJAN GOGOI.**

ORDER

17.08.2006

A preliminary objection has been raised by Sri S. Sarma, learned Standing Counsel, Railways, to the effect that this writ petition will come within the purview of the bar imposed by Section 14 of the Central Administrative Tribunal Act, 1985 and therefore the petitioner should be asked to approach the learned Central Administrative Tribunal at Guwahati.

I have read and considered the provisions of Section 14 of the Act as well as Section 3(g) which defines service matters to include pension and other retirement benefits. Having regard to the subject matter involved I am of the view that this writ petition will not be maintainable in view of the provisions contained in Section 14 of the Act.

The petitioner may approach the learned Central Administrative Tribunal accordingly.

sd/- Ranjan Gogoi

Judge

*13 RD. 59653
29/8/06*

CERTIFIED TO BE TRUE COPY
Kerenz Kom Doga
Date *29/8/06*
Superintendent (Copy in Section)
Gauhati High Court
Authorized U/S 76, Act I, 1872

ATTESTED
Ashatta
ADVOCATE

29/8/06

DISTRICT: KAMRUP

-VAKALATNAMA-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 295 OF

2006

Smti Chiramai Das & Others.

APPLICANTS

PETITIONER

-Versus-

The N.F. Railway & Others

Respondents
Opposite party

Know all men by these presents that above named Smti Chiramai Das
do hereby nominate, constitute and appoint Shri. Adil Ahmed, Ms. Smita Bhattacharjee
Advocate and such of the under mentioned Advocates as shall accept this
Vakalatnama to be my/our true and lawful Advocates to appeal and act for me/us
in the matter noted above and in connection therewith and for that purpose to do
all acts whatsoever in that connection including depositing of drawing money,
filing in or taking out deeds of composition, etc. for me/us and on my/our behalf
and I /We agree to ratify and confirm all acts so done by the Advocates as
mine/ours to all intents and purpose. In case of non-payment of the stipulated fee
in full, no Advocate will be bound to appear and on my/our behalf.

In witness whereof I/We hereunto set my/our hand this the 2nd day of December
2006.

ADVOCATES

A.R.Barooah

J.M.Choudhry

A.S.Bhattacharjee

N.M.Lahiri

G.K.Joshi

✓ Adil Ahmed

R.P.Sharma

P.Sarma

S.A.Laskar

M.H.Choudhry

Sanjoy Mudoi

Sukumar Sarma

S.Jain

A.J.Atia

✓ Ms. Smita Bhattacharjee

Received from the executants and accepted.

Advocate

(Accepted)
Smita Bhattacharjee
(Advocate)

Dated.
4-12-2006.

85

To,

The ~~SCS~~ N. F. Railway S.C.
Central Administrative Tribunal
Guwahati Bench, Guwahati.

SA 295/06

Subject:- Supply of copy of Original Application.

Sir,

Please, find herewith a copy of Original Application filed by Smti. Chiramai Das and Others, the applicants, through me, which will be moved in this Hon'ble Tribunal in due course. Kindly, acknowledge the receipt of the same. Thanking you.

Received Copy:-

(For DA J.L. Sarkar)
(SC Railways)
4/12/06

Yours faithfully

Smita Bhattacharjee
(Advocate)

20

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL;
GUWAHATI BENCH : GUWAHATI**

IN THE MATTER OF :

MEMORANDUM OF APPEARANCE

In O.A. No. 295 of 2006

Sri. Chiramai Das 2003-
.....Applicant


-Vs-

Union of India & Others

..... Respondents

I, Shri Kanti Kumar Biswas, Railway Advocate, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of Union of India & Respondents Nos. 1, 2 in the above case. My name may kindly be noted and shown as Advocate for the Respondent/s accordingly. Necessary Vakalatnama is enclosed.

Enclo: 1(one)


(Kanti Kumar Biswas) 17-1-07
Railway Advocate
Central Administrative Tribunal
Guwahati

To
The Registrar,
Central Administrative Tribunal,
Bhangagarh, Rajgarh Road,
Guwahati

VAKALATNAMA

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA No. 295 of 2006

Sri Chiramai Das & Ors Applicants

Versus

U.O.I. & Ors Respondents

Filed by:-
K.K. Biswas
17/11/07
Advocate

I Sri A. Narayanan, Divisional Personnel Officer/Tinsukia of the Northeast Frontier Railway Administration, who is also ex-officio authorised to act for and on behalf of the Union of India as representing the Northeast Frontier Railway Administration do hereby appoint and authorised Shri K.K. Biswas, Railway Advocate, Guwahati to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back document, to accept processes of the court to appoint and instruct counsel, Advocate or pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal proceedings and to do all things incidental to such appearing, acting, applying, pleading and presenting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate officer of the Govt. of India, the said Counsel/Advocate/Pleader or any counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defense/proceedings against all or any defendants/respondents/ appellants/ plaintiffs/opposite parties or enter into agreement, settlement or compromise hereby the suit/appeal/proceedings is/are wholly or partly adjusted or refer all or any matter or matters arising out in dispute therein to arbitration PROVIDED THAT IN exceptional circumstances when there is not sufficient time to consult such appropriate officer of the Govt. of India and on omission to settle or compromise would be definitely prejudicial to the interest of the Govt. of India the said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/ appeal proceedings is/are wholly or partly adjusted and in every such case the said counsel/advocate/pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

I hereby agree to ratify all acts done by the aforesaid Shri K.K. Biswas, Railway Advocate, Guwahati in pursuance of the authority.

IN WITNESS WHERE OF THOSE presents are duly executed for and on behalf of the Union of India this _____ day of _____ 2006.


FOR AND ON BEHALF OF UNION OF INDIA

Divisional Personnel Officer
S. P. Gaitanar Namam

Accepted
K.K. Biswas
15/11/07
Railway Advocate

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
11 JUL 2007
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O. A. No. 295/2006

Smt. Chiramai Das & Ors. Applicants

-VS-

General Manager (P), N.F. Railway & others..... Respondents

IN THE MATTER OF:

WRITTEN STATEMENT BY THE RESPONDENTS

THE ANSWERING RESPONDENTS MOST RESPECTFULLY SHEWETH:

1. That the answering Respondents have gone through the copy of the application filed by the above named Applicants and understood the contents thereof. Save and except the statements which have been specifically admitted herein below or those which are borne on records all other averments/allegations made in the application are hereby emphatically denied and the application has 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 confined their replies to those points/allegations/averments of the application which are found relevant for enabling a proper decision on the matter.
3. That the Respondents beg to state that for want of the valid cause of action for the Applicants the application merits dismissal as the application

File No: 11-7-07
Advocate
Divisional Personnel Officer
Smt. R. R. TINSUKIA

basic

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Divisional Personnel Office
Tinsukia
B.P. B.V. TINSUKIA

been stated that she is the 2nd wife, and Smt. Bobby Das, Bidyawati Das, Tutumani Das and Junumani Das were the heirs born through 2nd wife Smt. Chiramai Das.

Photo copy of above Affidavit is enclosed as ANNEXURE-I.

7. That with regard to statement made in para 4.7 of the O.A. it is stated that after the death of Late Baneswar Das, both the wives i.e. Kunjalata Das & Chiramai Das had claimed for payment of final settlement dues & Family Pension in their favour. Since there is no Rule in Rly. (Servants) Pension Manual/1993 to pay the claimed amounts to the 2nd wife, both the parties had been informed to submit succession certificates from the Hon'ble Court of Law. Subsequently, both the wives submitted succession certificates obtaining from the Court of Law. The learned District Judge, Sibsagar vide his judgement dtd. 17-07-96 & 14-08-96, rejected the claim of Smt. Chiramai Das and ordered the Rly. Authority to pay the entire amount of Final settlement dues of Late Baneswar Das, EX.SSM/MUGN to Smt. Kunjalata Das, the 1st wife.

Photo copies of succession certificates are enclosed in the O.A. as ANNEXURES 2 & 3.

8. That with regard to the para 4.8 it is stated that these are all matters of Courts decision and the Respondents acted in accordance with the provisions of law and their own set of Rules, system and procedures.

9. That with regard to the para 4.9 it is stated that in the Succession Certificate, amount of Final settlement dues was shown to Rs. 1,49,658.00. According to the Hon'ble Court's verdict, the 4 (four) legal daughters of

2

1

Divisi...
P. E. T. TINSUKIA
R. R. TINSUKIA

no claim whatsoever to receive family pension as long as the legally wedded wife is the recipient of the said family pension. Hence pro-rata family pension to the daughter born through Smt. Chiramai Das could not be sanctioned as per Rules.

Photo copies of above are Annexed as ANNEXURE- 6.

12. That with regard to the statement made by the Applicant in para 4.11 of the O.A. it is stated that as per succession certificate and also in the laid down provision of Railway servants (Pension) Rules-1993, the Family Pension to the extent of full had been paid to Smt. Kunjalata Das, the 1st Wife, vide Sr. DFM/TSK's pension payment order (P.P.O) No. TSK/Pen/0509011536 dtd. 30-05-2001 & letter No. TSK/Pen/91/Pt.II dtd. 28-12-2006 through her Bank A/c No. 10216365408 dtd. SBI/GRC Branch, Noonmati, Dist- Kamrup (Assam). As per distribution, equal share amongst the 7 (seven) Nos. of legal heirs with spouse- the legal heirs of 2nd wife got the Final settlement dues amounting to Rs. 85,518.84 (i.e. @ Rs. 21,379.71 x 4 shares).

Photo copies of above will be exhibited at the time of Hearing.

That with regard to paras 4.12 to 4.17 of the O.A. it is
13. That stated that due to family disputes the following Court cases had arisen (1) Misc, Appeal (First) No. 147 of 1996 and its judgement issued on 19-08-97. (2) Patent appeal No. 51 of 1997 and its judgement issued on 18-12-99. As per orders of Court of Law in the year 2000, succession certificates submitted by both the parties i.e. Smt. Kunjalata Das on 21-02-2000 and Smt. Chiramai Das on 09-08-2000. The final settlement dues of Late Baneswar Das, Ex.SSM/MUGN were paid to the legal heirs as per directives of Hon'ble Court. Since the delay in payment of the Final

Divisional Personnel Officer
 1. श्री. रेखा, तिनसुकिया
 2. श्री. रज, तिनसुकिया

settlement dues is due to legal disputes and kept pending on account of the parties" cross claim the Railway Administration could not arrive at a conclusive decision vis-a-vis Court's Order's, no interest is admissible as per Rly. Rules. As there is no provision for payment of family pension on Pro-rata basis, no family pension @ 50% to the unmarried daughters born through Smt. Chiramai Das had been paid. After exhausting the currency of Family Pension to be drawn by the Smt. Kunjalata Das, 1st wife, and/or in the happening of her death or re-marriage, the minor family Pension is admissible to the un-married daughters born through the 2nd wife up to the age of 25 yrs. or their earnings or marriage, whichever is earlier.

Photo copy of the authority- under Rule 75 (6), page-34 of Railway servants (Pension) Rules-1993 is enclosed as ANNEXURE... 7...

14. That it is stated that the reply has been mentioned in the para 7b10 above and, hence, the Respondents do not offer any further comments in this context.

15. It is reiterated that the Family Pension to the minor is admissible to the unmarried daughters of Late Baneswar Das, Ex-SSM/MUGN upto 25 yrs. of age or earnings or marriage whichever is earlier, when the family pension to Smt. Kunjalata Das, 1st wife, is stopped due to her re-marriage or death, whichever is earlier, as per rule 75 (6) of Railway services (Pension) rules-1993. The major sons above 25 yrs. or earnings will not come under the purview of pension Rules. In this connection the foregoing para -12 will apply. No interest on PF, GIS & Leave salary is admissible as per extant Rules.


Contd.....P/7...Photo-copy.....

Photo copy of the Extract of the above Rule is annexed as
ANNEXURE.....

16. That with regard to the statements made under paras 4.18 to 4-24 the Respondents beg to state that they had taken actions according to the orders and directions of the Courts of Law and also as per Rly. Rules & procedures and there was no violation of any of the same and no denial of the Principles of Natural Justice and Articles 14, 16, 21 of the Constitution of India and hence, the allegation of the Applicants in those paras are totally denied.

17. That the Respondents respectfully submit that the present application has no merit at all and is, therefore, liable to be dismissed with costs.

18. That the Respondents crave leave of this Hon'ble Tribunal to file an Additional Written Statement/Rejoinder, if necessary.


Divisional Personnel Officer
पू.सी. रेलवे, तिनसुकिया
N.F. Rly. TINSUKIA

VERIFICATION

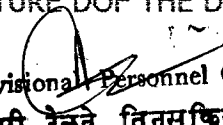
I, Shri A. Narayanan, aged about 36 years, working in the capacity of Divisional Personnel Officer, N. F. Railway, Tinsukia Division do here by solemnly affirm and verify that the contents of paragraphs 1 to 13 are derived from the records and I belief them to be true to my knowledge & information and that I have not suppressed any material facts and the paragraphs 14 to 18 are my humble and respectful submission before this Hon'ble Tribunal.

And I sign this VERIFICATION on this day of 2007.

Place : Guwahati.

Date :

SIGNATURE OF THE DEPONENT.


Divisional Personnel Officer
N.F. Rly. TINSUKIA

To,

The Register,
Central Administrative Tribunal,
Guwahati Bench, Guwahati.



IN THE COURT OF THE MAGISTRATE AT SIVASAGAR.

Date: 5.8.2000

A F F I D A V I T

I, Smti Chiramai Das, w/o Late Baneswar Das, resident of Lakuwa Mout gaon, P.O. ^{Simaluguri} Lakuwa under Simaluguri P.S. by occupation Housewife, Dist. Sivasagar, do hereby solemnly and sincerely affirm to say as follows :-

1. That Late Baneswar Das was my husband and he died on 1994 and I am physically present there.

(This is true to my knowledge and belief).

2. That Miss Junmoni Das is my own daughter and she also a minor one.

(This is true to my knowledge and belief).

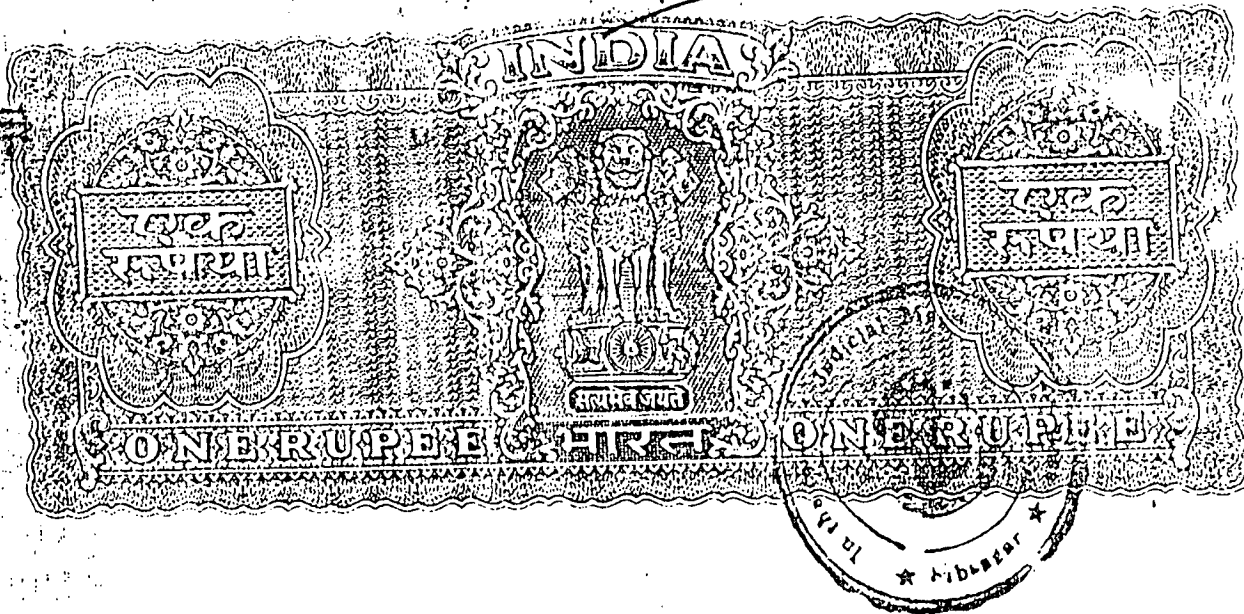
3. That my said daughter's date of birth is 1-1-1983 and as such her present age is 16 years upto 31-12-99.

(This is true to my knowledge and belief).

4. That my said daughter being minor in age is under my care and custody and I take care ~~xxx~~ of her.

(This is true to my knowledge and belief).

cond...2.



- 2 -

5. That this affidavit is being sworn in order to declare my daughter's present age .

(This is true to my knowledge and belief).

6. That I am the legal guardian of my minor daughter Miss Junmoni Das who lives with me.

(This is true to my knowledge and belief).

Verification

Whatever stated above are true to the best of my knowledge, belief and information and I sign this affidavit on this 5th day of August, 2000 at Sivasagar.

श्री जित यादव दास

Deponent.

Solemnly affirmed before me by the deponent who is identified by J. Chandra Bha

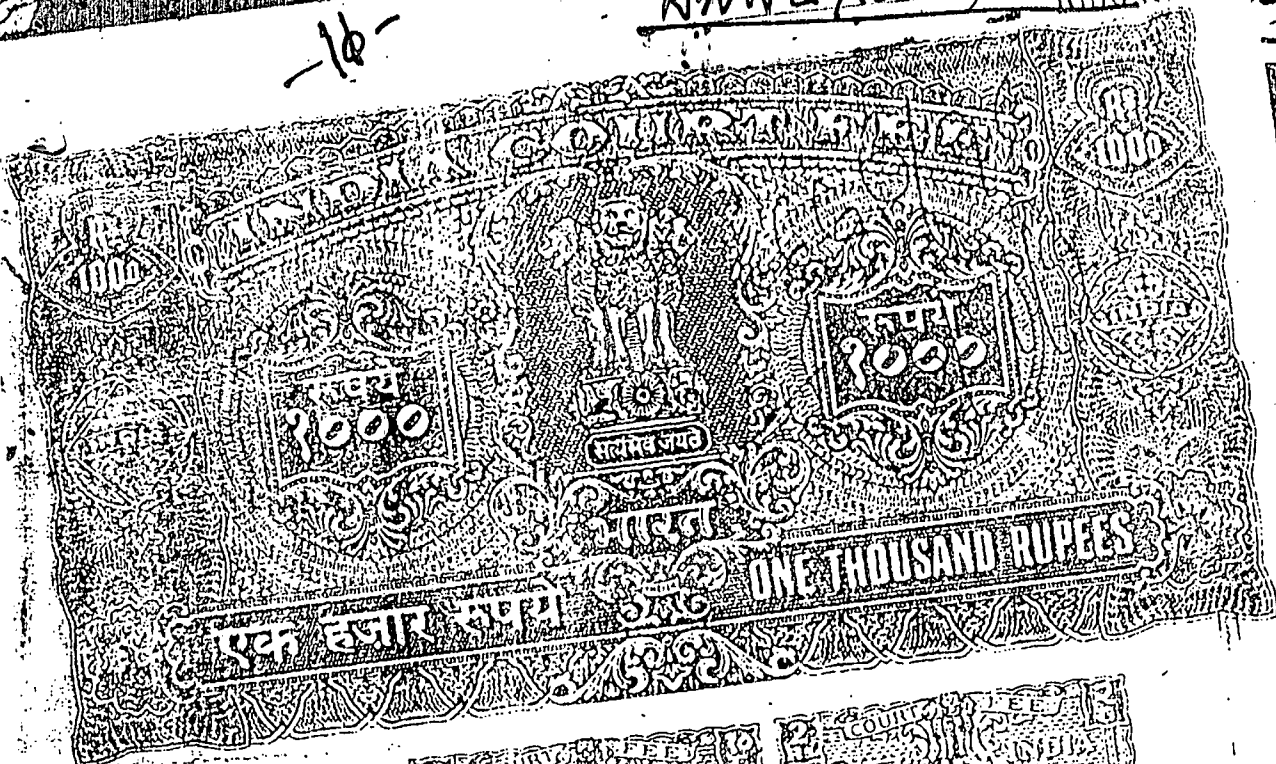
Identified by :-

5/8/2000
MAGISTRAT SIVASAGAR.

Attest

For Divisional Railway Manager (P)
N.P. Railway, Tinsukia

-10-



17.2.2008
Smt. Jyoti
Sibsagar

Assam Schedule VII, Form No.223.
HIGH COURT FORM NO (J) 55

SUCCESSION CERTIFICATE

(Section 377 of the Indian Succession Act, 1925)
IN THE COURT OF THE DISTRICT JUDGE ::: AT SIBSAGAR.

Misc.(Succession)Case No.67/95

To
Smt. Kunjalata Das, w/o late Baneswar Das
Resident of Kumarnati, Barpeta mouza, P.O., P.S. & District
Barpeta, Assam.

Contd..... 2/-



17-2-2008
District Judge
Sibsagar

- 2 -

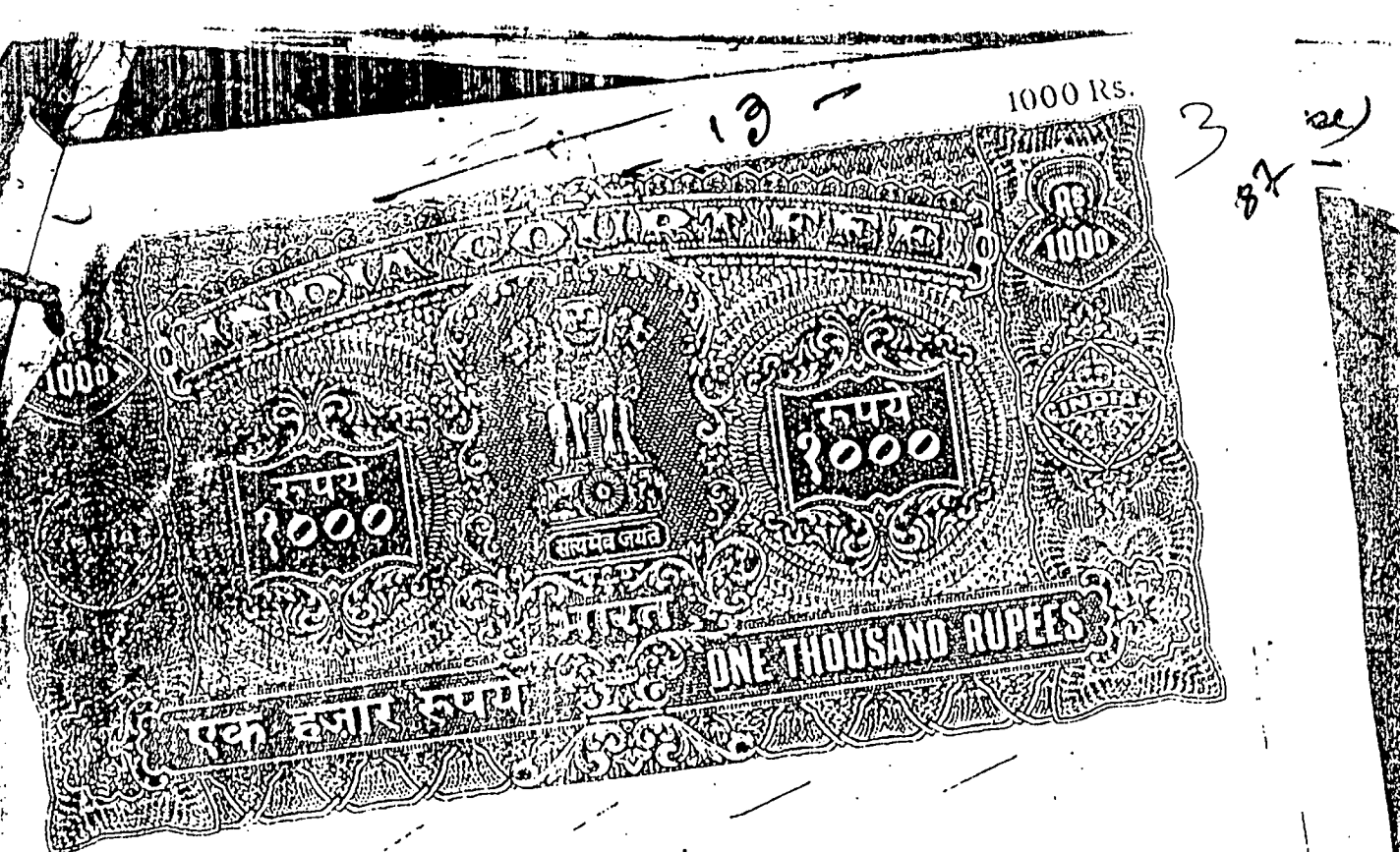
Whereas you applied on 17-4-95 for a certificate in Part-I of the Indian Succession Act, 1925 in the matter of the estate of late Banerwar Das deceased in respect of the following debts and securities namely :

Contd..... 3/-



District Judge
Sibsagar

18-2-2008
District Judge
Sibsagar



276
17.2.2000
District Judge
Sibsagar

- 3 -

DEBTS

Sl. No.	Name of debtor	Amount of debts including interest on date of application.	Description and date of instrument, if any, by which the debt is secured
---------	----------------	--	--

N I L

affirmed
18.2.2000

Contd..... 4/-

District Judge
Sibsagar

Private Secretary
To The Hon'ble Judge
The Gauhati High Court
GAUHATI.

14

2

- 4 -

S E C U R I T I E S

Sl.No.	DESCRIPTION	Market value of
	Distinguishing Amount or Name, title security on date	
	No. or letter part value or class of of application	
	of security of security security for certificate	

S C H E D U L E

1) DRM(P)/TSK

1. P.F. own contribution	Rs. 31,000.00 (Approx.)
2. D.L.I.S.	Rs. 25,000.00 (")
3. G.I.S.	Rs. 35,156.00 (")
4. Leave Salary	Rs. 9,502.00 (")
5. DCRG	Rs. 47,000.00 (")
6. Misc.	Rs. 2,000.00 (")

Rs. 1,49,658.00

(Rupees one lakh forty nine thousand six hundred fifty eight) only.

2) Family pension admissible under the Railway Rule @ Rs. 900.00 w.e.f. 9.6.94 to 8.6.2001 and there after Rs. 450.00 plus relief as admissible.

Out of the total amount of Rs. 1,49,658.00 the petitioner is entitled Rs. 64,139.13 being her share and share of her two major sons and all family pension also is entitled by the petitioner and her sons under the Railway Rule @ Rs. 900.00 w.e.f. 9.6.94 to 8.6.2001 and thereafter Rs. 450.00 and /or admissible as per Rule /Rules of the Railway Authority.

Contd.....5/.....



District Judge
Sibesar

17.2.2001

advised
Shradha
28.2.2001
District Judge
Sibesar
For the High Court
G.A. No. 21-1

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

1. to receive interest or dividend on,
2. to negotiate or transfer,
3. both to receive interest or dividend on, and negotiate or transfer the securities or any of them.

Dated this 17th day of Feb' 2000.

21.2.2000
District Judge
Sibsagar.



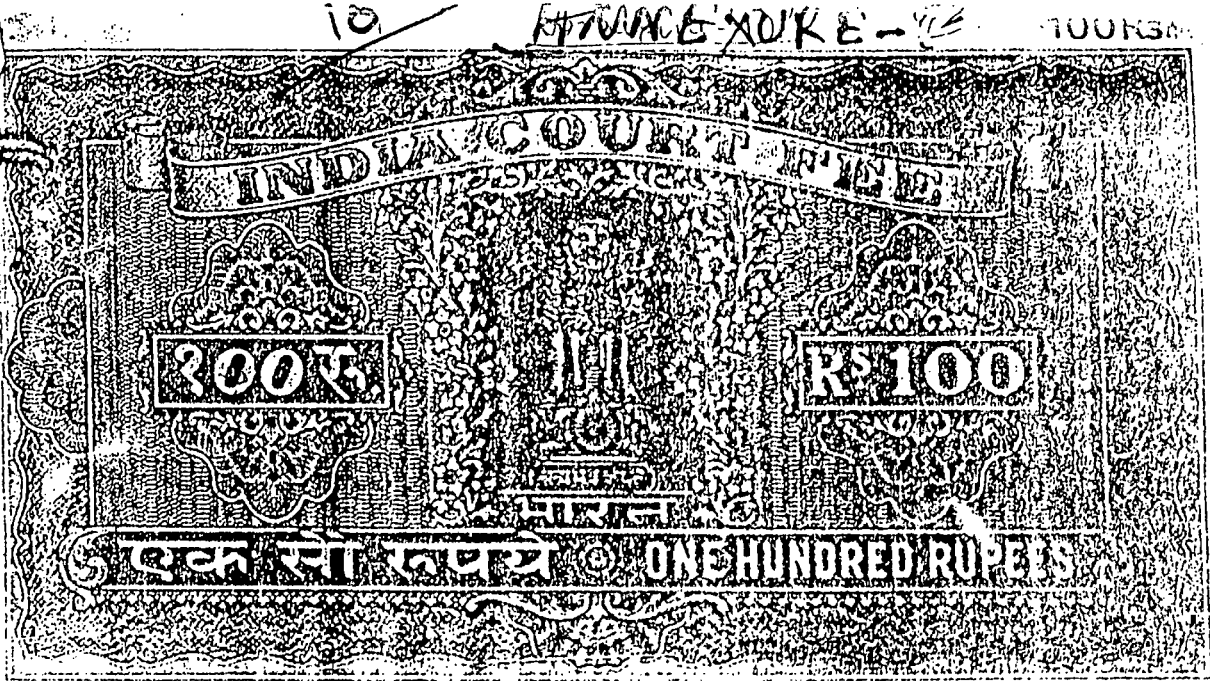
Accepted
78.2.2000

Accepted

17.2.2000
होम मंडल रेल प्रबंधक (का०)
Divisional Railway Manager (P)
पू० सी० रेलवे, तिनसुकिया
N. F. Railway, Tinsukia

Accepted

होम मंडल रेल प्रबंधक (का०)
Divisional Railway Manager (P)
पू० सी० रेलवे, तिनसुकिया
N.F. Railway, Tinsukia



2. 11/11/19
District Judge
Sibsagar

IN THE COURT OF THE DISTRICT JUDGE : : : AT, SIDSAGAR.

Misc. (Succession) Case No. 67/95

Smti. Kunjalata Das Petitioner
-vs-
Smti. Chiramai Das. Opp. party.

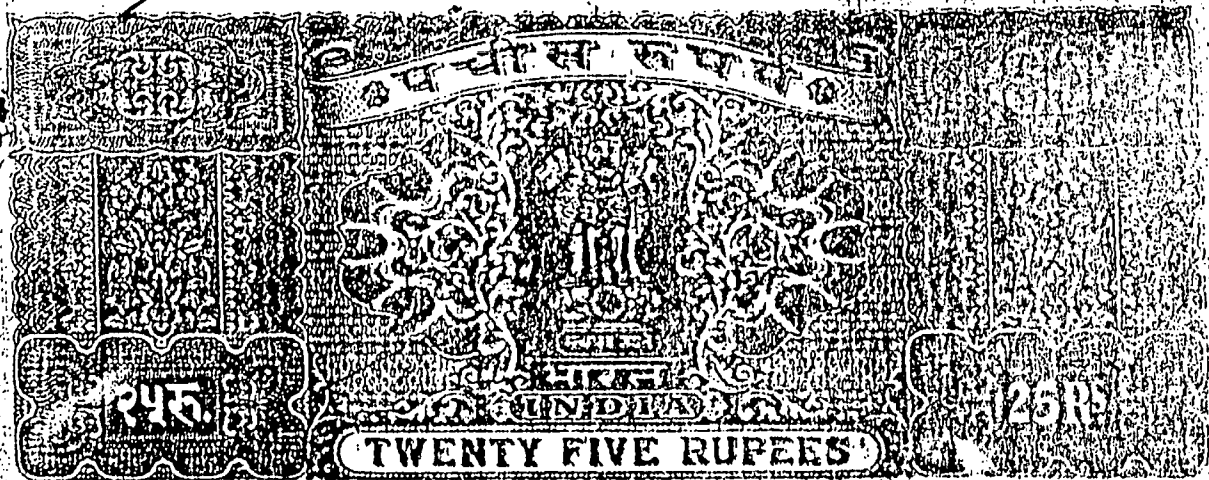
2
District Judge
Sibsagar

Dated this 23rd day of March 1900.

26 23.3.2000
District Judge
Sibsagar.

24
District Judge
Sibsagar

Attended
हरी चंदल (का.)
For Divisional Railway Manager (F)
पु.सी. रेलवे, तिनगुनिया
N.P. Railway, Tingulia



Assam Schedule VII, Form No. 223.

HIGH COURT FORM NO. (J) 55.

SUCCESSION CERTIFICATE

(Section 372 of the Indian Succession Act, 1925).
IN THE COURT OF THE DISTRICT JUDGE, AT SIBSAGAR.

Fisc. (Succ.) No. 67/95.

To,

Smti. Chiramai Das, W/O Late Baneswar Das,
resident of Village Mautgaon, P.O. Maut Gaon, P.S.
Simaluguri, Dist. Sibsagar.

Whereas you applied on 17.4.95 for a certificate
in Part-I of the Indian Succession Act, 1925, in the matter
of the estate of Late Baneswar Das, deceased, in respect of
the following debts and securities namely :-

D E B T S

Sl.No.	Name of debtor	Amount of debts including inte- rest on date of application	Description and date of instruments, if any by which the debt is secured.
--------	----------------	--	--

N I L

13.3.2000
District Judge
Sibsagar

Contd.....2/.....



25.3.1947
District Judge
Sibsagar

- 2 -

SECURITIES

Sl No	DESCRIPTION			Market value of security on date of application for certificate.
	Distinguishing No or letter of security	Amount or part value of security	Name, title or class of security	

36
District Judge
Sibsagar

Contd..... 3 /-



District Judge
Sibsagar

- 3 -

SCHEDULE

1) DRM(P)/TSK

1. P.F.own contribution	Rs.	31,000.00	(approx.)
2. D.L.I.S.	Rs.	25,000.00	(")
3. G.I.S.	Rs.	35,156.00	(")
4. Leave Salary	Rs.	9,502.00	(")
5. DCRG	Rs.	47,000.00	(")
6. Misc.	Rs.	2,000.00	(")

Rs. 1,49,658.00 ✓

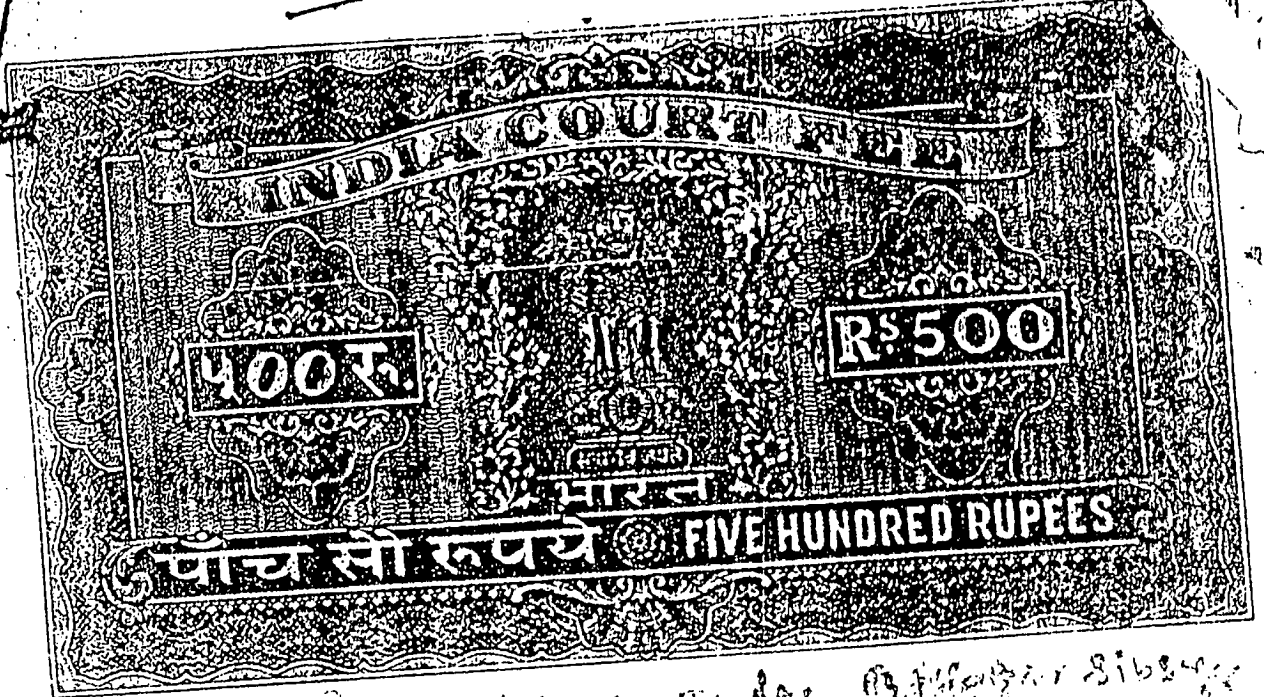
(Rupees one lakh forty nine thousand six hundred fifty eight) only.

District Judge
Sibsagar

Contd..... 4/-

20

8 500



Before Mr. District Judge, District Judge, Sibsaagar

20
District Judge
Sibsagar

- 4 -

- 2) Family Pension admissible under the Railway Rule @ Rs. 900.00 w.e.f. 9.6.94 to 8.6.2001 and thereafter Rs. 450.00 plus relief as admissible.

Contd.....5 /-

20
District Judge
Sibsagar

21
7 25 Rs. al
INDIA COURT FEE

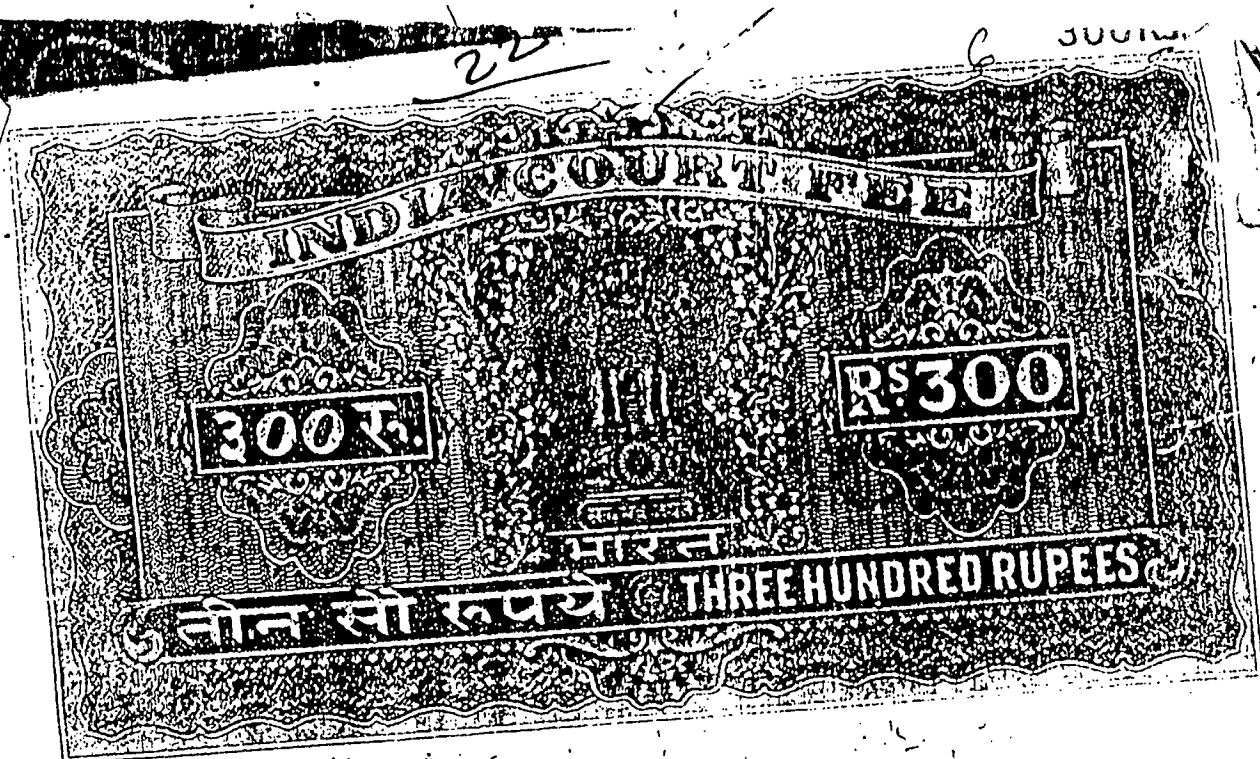


- 5 -

Out of the total amount Rs. 1,49,658.00/-
the petitioner is entitled to Rs. 85,518.84 as the
share of her four daughters namely Boby Das, Bidyabati
Das, Junmoni Das and Tuturoni Das.

245
District Judge,
Sibsagar

Contd.....6/.....



District Judge
Sibsagar

- 6 -

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

1. to receive interest or dividend on,
2. to negotiate or transfer,
3. both to receive interest or dividend on, and negotiate or transfer the securities or any of them.

Dated this 23rd day of March 2000.

District Judge
Sibsagar.

Attended

हरी प्रसाद (का.)
For Divisional J.A. (का.)
डि.डी. रेल्वे, तिरुचुल्ला
M.F. Railway, Tiruchulla

NO. ES-B/282 (FS).

K To:

DAO/TSK/Pension

Office of the
Divill. Rly. Manager
Dt. 20.5.2001

Sub:- Final settlement of late Baneswar Das, ex- SS
MUGN.

The above named expired on 8.11.94. Due to family disputes the case could not be finalised in time. The deceased employee got two wives, namely - (1) Smt. Kunja late Das, 1st wife, & (2) Smt. Chira Mai Das, 2nd wife. After his death both the wives claimed the F.S. dues of him. The deceased employee did not execute nomination for drawal of F.S. dues in the event of his death while in service. So, to finalise the case, a decision from H.Q. was sought for vide this office letter of even no. dt. 6.1.95.

GM(P)/MIG vide his letter No. E/207/C- PRIV(C) dt. 3.2.95 directed this office to obtain succession certificate from the court of law and the F.S. dues as admissible to be paid equally as per succession certificate in absence of nomination which is re-produced below:

"Where there is no nomination and family declaration exists, the P.F, GIS, & DCRG money may be equally distributed to the legal heirs of the family of deceased employee on production of succession certificate from the court of law."

Accordingly, both the widows had been informed to submit the Succession certificate vide this office letter of even no. dt. 27.3.95. The 1st wife could submit the succession certificate from the court of law on 21.2.2000 and the 2nd wife on 9.8.2000 with an affidavit.

In the succession certificate Hon'ble Court has directed that the family pension as admissible to be paid in favour of Smt. Kunja Late Das, the 1st wife, and the 2nd wife will not get the benefit of anything as she was not given the status of 2nd wife. The legal heirs of the 1st & 2nd wife will get the F.S. dues of late Das, ex- SS/MUGN equally. The following are the legal heirs of him as per court order.

- | | | |
|----------------|---|--------------|
| 1st Party- - = | 1. Smt. Kunjalata Das, - | 1st wife. |
| | 2. Sri Dharmeswar Das, - | son-Major. |
| | 3. " Dul Das, | -so- |
| 2nd party : | 4-Miss Bobby Das, u/m daughter - major. | 01-1-79 |
| Legal heirs of | 5. " Bidyawati Das, | -do- 01-1-79 |
| 2nd-wife | 6. " Totomani Das, | -do- 01-1-81 |
| | 7. " Jun mony Das, | -do- 01-1-83 |

On receipt of the necessary F.S. forms and Bank acc (bank account submitted on 26.3.2001) duly executed by the legal heirs of 2nd wife after issuing the succession certificate, the following F.S. dues have been paid equally to the legal heirs as per directive of Hon'ble court of law on the succession certificate.

1. P. F. own contribution money :-
2. G.I.S. money :- 15, 125/- paid vide CO7 NO 2768
- 3 T91 41- 24.2001.
- 3 Salary 24. 9058/- paid vide CO7 no 2
- TES. 41- 19-4- 2001.

allotted
reference
11.7.07
Advocate

Cont- 2

24
Page- 2.

After finalisation of the above F.S. dues his pensionary benefits have been prepared and the P/case, S/Sheet together with all the connected documents submitted by the legal heirs are sent herewith for arranging payment of family pension & DCRG as admissible. The family pension may be paid to Smt. Kunja lata Das, the 1st wife in full and the amount of DCRG may be distributed in equal ~~share~~ share among the legal heirs (i.e. in 7(seven) equal shares) ~~work~~ excluding the 2nd wife in all purposes as per directive of Hon'ble court in the succession. (copy enclosed).

Since it is a very old case and the party concerned are also pressing hard for early finalisation of the case, you are requested to deal with the case on " Out of ~~turn~~ turn" basis and issue P.P.O accordingly.

DA:- As above.

for Divil. Rly. Manager(P)
N.F.Rly, Tinsukia.

allied
Mr. D. S.
11-7-07
Advocate

25

ANNEXURE-5

N.F. RAILWAY.

No. 32-N/2001 (F).

To

Smt. Chitra Lal Das,
C/O Sri R.N. Ladd (Micoato).
Banshidhar Road, Tinsukia.
P.O. & Dist: Tinsukia (Assam).

Office of the
Divl. Ry. Manager (F)/TSK.
Dt. 24.2.2001.

Subj:- Prayer for prerath family pension to the
daughters of 2nd wife of late Dineswar Das,
Ex-SS/MUCH.

Ref:- Your representation No. Nil dt. 21.2.2001.

Madam,

In reference to your letter dt. 21.2.2001, it is to
inform you that as per succession certification issued by the Hon'ble
Court, Sibsagar on 17.2.2000 full family pension as admissible W.O.F.
9.6.91 onward will be paid to Smt. Kunja Lal Das, the 1st wife and
her sons only. There is no mentioning for payment of family pension
in favour of the daughters of 2nd wife, Smt. Chitra Lal Das.

Further, in the succession certificate dt. 23.3.2001
issued in favour of you by the Competent Court/Sibsagar only the total
amount of F.S. dues of late Dineswar Das, ex-SS/MUCH has been distri-
buted as under:

" Out of the total amount of Rs. 1,40,858/- the
Petitioner is entitled to Rs. 85,513.94 as the share
of her four daughters, namely- Smt. Reby Das,
Bidyabati Das, Jnanmoni Das & Tuturmoni Das."

As the case has already been processed as per
directive of the Hon'ble court of law (i.e. as per succession certificate
issued in favour of the both widows/parties).

This is for your information and necessary action please.

Yours faithfully.

for Divl. Ry. Manager (F)
N.F. Ry., Tinsukia.

कृषि घंडल रेल प्रबंधक (सा.)
For Divisional Railway Manager (P)
पु.सी. रेलवे, तिनसुकिया
N.F. Railway, Tinsukia

Certified to be
true copy
SS-1
Advocate

11-7-07
Advocate

21/12/97
To the Secy, Ministry
of Railways, New Delhi
From the Secy, Ministry
of Railways, New Delhi

FS-850.

No.E/207/0 Pt.X IX(C).

N. F. Railway.

Maligaon, dated 9-5-97

26-11-97

To
All Heads of Departments.
All DRMs, DAOs, WOs, NBO and DBWS.
All Distt. and Asstt. Officers
of non-divisionalised Offices.

The General Secretary/NFTU/PNO.
The General Secretary/NFRMU/PNO
The General Secretary/AISCRREA/MLG.

Sub:- Grant of pensionary benefits to children
from the void or voidable marriages.

A copy of Railway Board's letter No.F(E)III/97/PN1/3
dated 14.2.97 on the above subject is forwarded for information
and necessary action.

for Chief Personnel Officer:MLG.

(Copy of Railway Bd's letter No.F(E)III/97/PN1/3 dt. 14.2.97.)

Sub:- As above.

A copy of the Department of Pension & Pensioners' Welfare's
O.M.No.1/16/96-P&PW(E) dt. 2.12.1996 is sent herewith. Orders
contained therein apply mutatis mutandis on the Railways.

2. Board desire that the contents of the Office Memorandum
may brought to the notice of all concerned.

3. Rule 54(8) of CCS(Pension) Rules, 1972 referred to therein
corresponds to Rule 75(8) of Railway Services (Pension) Rules 1993.

4. Please acknowledge receipt.

ad/-23.4.97
copy to fs secy

OS/EG
OS/FS

King
3/12/97

Advocate
11-7-97

27

No. 1/16/96-P&PW(E)
Government of India
Ministry of Personnel Public Grievances and Pensions,
(Department of Pension & Pensioners' Welfare)
....

3rd Floor, Lok Nayak Bhavan
Khan Market, New Delhi-110 003
Dated, 2nd December, 1996.

OFFICE MEMORANDUM

Subj:- Grant of pensionary benefits to children
from the void or voidable marriages.
....

Attention is invited to provisions contained in Rule 54(8) of CCS(Pension) Rules 1972 and decisions there under on regulation of amount of family pension payable. This Department has been receiving references from Ministries/Departments seeking advice on the question of admissibility of family pension to children of a deceased Government servant/pensioner from a wife whose marriage with the said Government servant/pensioner would be voidable or held void under the provision of Hindu Marriage Act.

2. The matter regarding grant of pensionary benefits to such children has been examined in consultation with the Ministry of Law.

3. In view of the fact that Section 16 of the Hindu Marriage Act, 1955 as amended by Hindu Marriage Laws (Amendment) Act states "Notwithstanding that a marriage and is null and void under section 11, any child of such marriage who would have been legitimate, if the marriage had been valid, shall be legitimate, whether such child is born before or after the commencement of Marriage Law (Amendment) Act, 1976, and whether or not a decree of nullity is granted in respect of that marriage under this act, and, whether or not the marriage is held to be void otherwise than on a petition under this act."

4. The rights of such children require to be protected and will accrue accordingly. It is, therefore, clarified that pensionary benefits will be granted to children of a deceased Government servant/pensioner from such type of void marriages when their turn comes in accordance with Rule 54(8). It may be noted that they will have no claim whatsoever to receive family pension as long as the legally wedded wife is the recipient of the same.

5. Hindi version of the O.M. is also enclosed.
....

all to
Vedant
11.2.97
Advocate

28

ANNEXURE-7



1993
Pk. 285 (Digi) sion
22000-1993 (D) S. dc

भारत सरकार
रेल मंत्रालय
(रेलवे बोर्ड)
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

F.S. Section.

Director.

रेल सेवा (पेंशन) नियम-1993

RAILWAY SERVICES (PENSION) RULES-1993

मूल्य/Price देश में / Inland : ₹. Rs. 45.00
विदेश में / Foreign : £1.35 or \$ 2.25

11-7-07
Advocate

nominee shall pass to such other person as may be specified in the nomination;

Provided that if at the time of making the nomination the railway servant has a family consisting of more than one member, the person so specified shall not be a person other than a member of his family;

Provided further that where a railway servant has only one member in his family, and a nomination has been made in his favour, it is open to the railway servant to nominate alternate nominee or nominees in favour of any person or a body of individuals, whether incorporated or not;

(ii) that the nomination shall become invalid in the event of the happening of the contingency provided therein.

(4) The nomination made by a railway servant who has no family at the time of making it, or the nomination made by a railway servant under the second proviso to clause (i) of sub-rule (3) where he has only one member of his family shall become invalid in the event of the railway servant subsequently acquiring a family, or an additional member in the family, as the case may be.

(5) A railway servant may, at any time, cancel a nomination by sending a notice in writing to the authority mentioned in sub-rule (7) :

Provided that he shall, alongwith such notice, send a fresh nomination made in accordance with this rule.

(6) Immediately on the death of a nominee in respect of whom no special provision has been made in the nomination under clause (i) of sub-rule (3) or on the occurrence of any event by reason of which the nomination becomes invalid in pursuance of clause (ii) of that sub-rule, the railway servant shall send to authority mentioned in sub-rule (7) a notice in writing cancelling the nomination together with a fresh nomination made in accordance with this rule.

(7) (a) Every nomination made, and every notice of cancellation given by a railway servant under these rules, shall be sent by the railway servant to his Accounts Officer in the case of a gazetted railway servant and to the Head of his office in the case of non-gazetted railway servant.

(b) Immediately on receipt of a nomination from a non-gazetted railway servant, the Head of office shall countersign it indicating the date of receipt and keep it in a separate confidential file which should

be lodged for safe keeping with him or other responsible officer nominated by him for this purpose, and a clear note made in the service record or service book, as the case may be, of the railway servant as to what nominations and related notices have been received from him and where they have been lodged for safe custody and an acknowledgement to the railway servant concerned confirming that the nominations made by him and the related notices have been duly received and placed on record shall invariably be sent to every railway servant making or cancelling a nomination, by the Accounts Officer in the case of gazetted railway servants and by the Head of office in the case of non-gazetted railway servants.

Note :—The power to countersign nomination form sent by non-gazetted railway servants may be delegated by the Head of Office to his subordinate gazetted officer.

(8) Every nomination made, and every notice of cancellation given by a railway servant shall, to the extent that it is valid, take effect from the date on which it is received by the authority mentioned in sub-rule (7) :—

75. Family Pension Scheme for railway servants, 1964 :—(1) The provisions of this rule shall apply :—

(a) to a railway servant entering service in a pensionable establishment on or after the 1st January, 1964 ; and

(b) to a railway servant who was in service on the 31st December, 1963 and came to be governed by the provisions of the Family Pension Scheme for railway employees, 1964, contained in the Railway Board's letter No. F(P) 63 PN-1/40, dated the 2nd January, 1964 as in force immediately before the commencement of these rules.

Note :—The provisions of this rule have also been extended from 22nd September, 1977, to railway servants on pensionable establishments who retired or died before the 31st December, 1963 and also to those who were alive on that date but had opted out of the 1964 Scheme.

(2) Without prejudice to the provisions contained in sub-rule (3), where a railway servant dies —

(a) after completion of one year of continuous service, or

Atul Kishore
11-7-07
Advocate

(b) before completion of one year of continuous service provided the deceased railway servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for railway service ;

(c) after retirement from service and was on the date of death in receipt of pension, or compassionate allowance, referred to in Chapter V, other than the pension referred to in rule 53 ;

The family of the deceased shall be entitled to a family pension 1964 (hereinafter in this rule referred to as family pension) the amount of which shall be determined in accordance with the Table below :—

TABLE

Basic pay per month of railway servant	Rate of family pension per month inclusive of dearness relief upto average Consumer Price Index-608
(i) Not exceeding Rs. 1500	30 per cent of basic pay subject to a minimum of Rs. 375.
(ii) Exceeding Rs. 1500 but not exceeding Rs. 3000	20 per cent of basic pay subject to a minimum of Rs. 450
(iii) Exceeding Rs. 3000	15 per cent of basic pay subject to a minimum of Rs. 600 and a maximum of Rs. 1250

Explanation.—The expression "Continuous one year of service" where-ever it occurs in this rule shall be construed to include "less than one year of continuous service" as defined in clause (b).

(3) The amount of family pension shall be fixed at monthly rates and expressed in whole rupees and where the family pension contains a fraction of a rupee, it shall be rounded off to the next higher rupee :

Provided that in no case a family pension in excess of the maximum specified under this rule shall be allowed.

(4) (i) (a) Where a railway servant, who is not governed by the Workmen's Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years' continuous service, the rate of family pension payable to the family shall be equal to fifty per cent of the pay last drawn or twice the family pension admissible under sub-rule (2), whichever is less, and the amount so admissible

shall be payable from the date following date of death of the railway servant for a period of seven years, or for a period upto the date on which the deceased railway servant would have attained the age of sixty-five years had he survived, whichever is less.

(b) In the event of death of a railway servant after retirement, the Family Pension as determined under sub-clause (a) shall be payable for a period of seven years, or for a period upto the date on which the retired deceased railway servant would have attained the age of sixty-five years had he survived whichever is less.

That in no case the amount of family pension determined under sub-clause (b) of this clause shall exceed the pension sanctioned on retirement from railway service :

Provided further that where the amount of pension sanctioned on retirement is less than the amount of family pension admissible under sub-rule (2), the amount of family pension determined under this clause shall be limited to the amount of family pension admissible under sub-rule (2).

Explanation.—For the purpose of this sub-clause "pension sanctioned on retirement" includes the part of the pension which the retired railway servant may have commuted before death.

(ii) (a) Where a railway servant, who is governed by the Workmen's Compensation Act, 1923 (8 of 1923), dies while in service after having rendered not less than seven years continuous service, the rate of family pension payable to the family shall be equal to fifty per cent of the pay last drawn or one and a half times the family pension admissible under sub-rule (2), whichever is less.

(b) The family pension so determined under sub-clause (a) shall be payable for the period mentioned in clause (i) :

Provided that where a compensation is not payable under the aforesaid Act, the pension sanctioning authority shall send a certificate to the Account's Officer to the effect that the family of the deceased railway servant shall be paid family pension on the scale, and for the period, mentioned in clause (i).

(iii) After the expiry of the period referred to in clause (i), the family, in receipt of family pension under that clause or clause (ii) shall be entitled to family pension at the rate admissible under sub-rule (2).

all set
11-7-07
Advocate

(5) Where an award under the Railway Services (Extraordinary Pension) Rules, 1993 is admissible, no payment of family pension under this rule shall be authorised.

(6) The period for which family pension is payable shall be as follows :—

- (i) in the case of a widow or widower, up to the date of death or remarriage, whichever is earlier ;
- (ii) in the case of a son, until he attains the age of twenty five years ; and
- (iii) in the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier :

Provided that if the son or daughter, of a railway servant is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of twenty-five years, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely :—

- (a) the family pension shall be paid to such minor sons or daughters through the guardian on the basis of guardianship certificate or the guardian appointed by a Court :

Provided that in respect of such sons or daughters who have attained the age of majority, it shall not be necessary to obtain guardianship certificate or appointment of a guardian by a Court either for grant or continuance of family pension to be sanctioned or continued to be paid to them subject to satisfaction of other eligibility conditions, under these rules :

- (b) before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such, prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Divisional Medical Officer setting out, as far as possible, the exact mental or physical condition of the child ;

- (c) the person receiving the family pension as a guardian of such son or daughter shall produce every three years a certificate from a medical officer not below the rank of Divisional Medical Officer to the effect that the son or daughter continues to suffer from disorder or disability of mind or continues to be physically crippled or disabled.

Explanation.—(1) Only that disability which manifests itself before the retirement or death of the railway servant while in service shall be taken into account for the purpose of grant of family pension under this sub-rule.

- (2) A daughter shall become ineligible for family pension under this sub-rule from the date she gets married.

- (3) The family pension payable to such a son or daughter shall be stopped if he or she starts earning his or her livelihood.

- (4) In such cases it shall be the duty of the guardian to furnish a certificate to the Treasury or Bank, or Post Office (Authorised disbursement units for Railways), as the case may be, every month that (i) he or she has not started earning his or her livelihood ; (ii) in case of daughter that she has not yet married ;

- (d) if the sons and unmarried daughters including sons and unmarried daughters suffering from disorder or disability of mind are alive, the family pension shall be payable in the order of their birth irrespective of the sex of the child and the younger of him shall not be eligible for family pension unless the elder above him or her becomes ineligible for the grant of family pension. In cases, where the family pension is payable to twin children, the same shall be payable to such twin children in equal shares and in the event of any of such children ceasing to be eligible for family pension, his or her share of family pension shall not lapse but shall become payable to the other such child and when both such children become ineligible for family pension, the family pension shall become payable to the next eligible single child or twin, as the case may be.

- (7) (i)(a) Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares.

- (b) On the death of a widow, her share of the family pension, shall become payable to her eligible child :

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal share, or if there is only one such other widow, in full, to her.

- (ii) Where the deceased railway servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the railway servant or pensioner :

(sons/daughters of another deceased wife)

Advocate

From:

Sri K.K. Biswas,

Advocate.

Central Administration Tribunal,

Guwahati.

To:

Sri A. Ahmed,

Advocate,

CAT/Guwahati.

Dear Sir,

Sub: O.A. No. 295 of 2006

Sr Chiramai Das 2 ors Applicant/Ptitioner

VS.

Union of India and Qrs. -----

Respondents/Opposite Parties.

Kindly acknowledge receipt of the enclosed "Service Copy" for the
Advocate of the ^{Applicant} Respondents/Opposite Parties.

With thanks,

Dated 11-07- 2007

Yours faithfully,

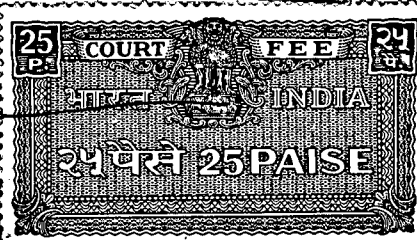
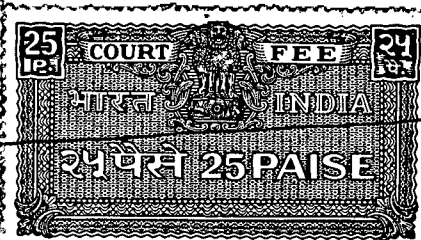
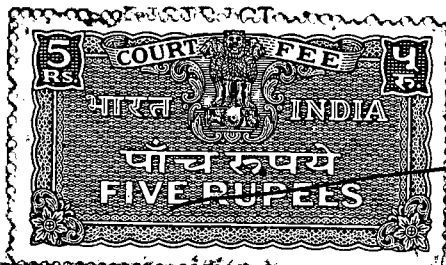
K.K. Biswas
(K.K. Biswas) 11-7-07

Advocate,

CAT/Guwahati.

I undertake the
responsibility for handing
over the "Service copy"
to the Applicant's Counsel.
K.K. Biswas
11-7-07
Advocate

File in Court on 18/11/07
 Court Officer.
 Court of Session



(Civil/Criminal Jurisdiction)

In the Court of CENTRAL ADMINISTRATIVE TRIBUNAL

A.A.N. No. 295 of 2006

Smt. Chikamai Das and others
Appellant
Petitioner

- Vs -
 The General Manager (P)
 N.E. Railway, Maligaon, Ghy-11
 and others.
Respondent
Opposite Party

On behalf of Smt. Kurnjalata Das, Respondent No. 3.....

Know all men by these presents that the above named Respondent
no. 3, Smt. Kurnjalata Das do hereby nominate, constitute and appoint
Shri B.N. Sarma, Miss D. Das..... Advocate and such of
 the undermentioned Advocates as shall accept this Vakalatnama to be
 my/our true and lawful Advocate to appear and act for me/us in the manner
 noted above and in connection therewith and for that purpose to do all
 acts whatsoever in that connection including depositing or drawing money
 filling in or taking our papers of deeds of composition, etc. for me/us
 and on my/our behalf and I/We agree to ratify and confirm all acts so
 done by the said Advocate as mine/ours to all intents and purposes. In
 case of nonpayment of the stipulated fee in full no Advocate will be
 bound to appear or act on my/our behalf.

In witness whereof I/We hereunto set my/our hand this the 19th
 day of November 2007.

ADVOCATES

✓ B.N. Sarma
 B. Pathak
 Monoranjan Deka

A.K. Phukan
 Dulmoni Das
 Bipul Sharma

Received from the executant, satisfied and accepted

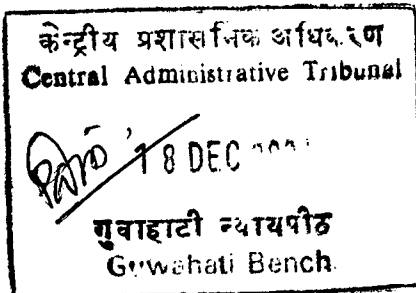
Advocate

Smt. Babu
 12-11-07.
Dulmoni Das
Advocate

File in Court on... 18/12/06
Court Officer.

Filed by:
N.F. Railway
14/12/07
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.



O.A.No. 295/2006.

Smti Chiramai Das and Ors.....Applicants

-Vrs-

General Manager(P), N.F.Railway and Ors... Respondents.

पु.सो. रेलवे, तिनसुकिया
N.F. Rly. TINSUKIA
Office

IN THE MATTER OF :

ADDITIONAL WRITTEN STATEMENT BY THE
RESPONDENTS.

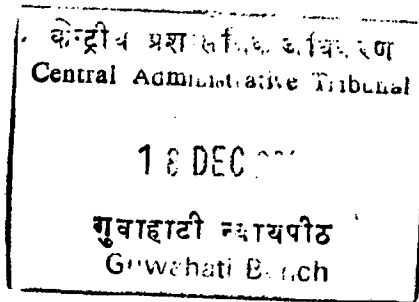
Most respectfully sheweth:

1. That it is stated that on further scrutiny and verification of the official records of the Respondents it reveals that the deduction of Rs.25,000/- from the withheld DCRG money of Late Baneswar Das, Ex-SSM/Moutgaon as alleged by the Applicant in the above named O.A. at Para 4.14 was not made from her. Rather, the DCRG money of the above named deceased Railway employee has not been released and paid till date for the following reasons:

2. That lat Baneswar Das, the above named deceased Railway employee, occupied the Railway quarters No.T/3(B) Typed II electrified at Moutgaon Railway Station. After his death permission for retention of the said quarter for 12 months on normal rent was sanctioned to Smti Chiramai Das as applied for vide Divisional Commercial Manager/Dibrugarh Town (DCM/DBRT)'s Office Order No.C/Qts/FS/88/Pt-II, 31.8.94 as per extant Rules in force during the prevailing time for the period from 9.6.94 to 8.6.95. After expiry of the permissible period on 8.6.95 Afternoon Smti Chiramai Das the Applicant did not vacate the said quarter but vacated only on 27.2.2000 as it appears in the quarter vacation/clearance report dated 5.9.2001. For non-vacation of quarters and for want of electrical consumption bill till vacation of the quarters i.e. from the date of death of Baneswar Das till the date of vacation of quarter by the Applicant, the DCRG money as admissible could not be released for payment. The Respondents-Railway for the aforesaid reasons are entitled to get the total amount of Rs.96,245/- minus the DCRG money admissible for Rs.44,400.00 i.e. total

Contd.....P/2..amount...

Contd.....P/3..submitted...



//3//

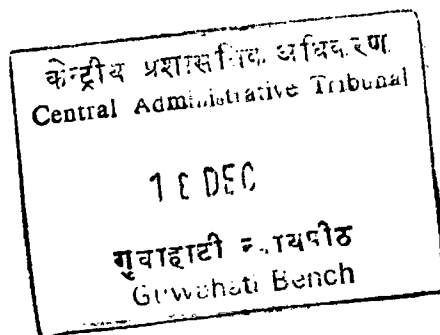
104
न्यायाधीश
पु.सो. रेलवे, तिनसुकिया
N.E. RLY. TINSUKIA
Office

submitted by both the widows, the one of which is a wife as recorded in the Railway records and the other one claimed to be the wife of Late Baneswar Das by producing the Affidavit annexed to the W.S. at ANNEXURE-I and also for the cross-claim of the payment of the retiral dues of Late Baneswar Das by his legal heirs.

3. That it is submitted that since the order for payment of family pension of Smti Kunjalata Das, the widow and the first wife of Late Baneswar Das as per record kept with the Respondents was not challenged by the Applicant Smti Chiramai Das claimed to be the second wife of Late Baneswar Das, the Respondents had no other way but to comply with the Hon'ble District Judge, Sibsagar's issuance of Successions Certificates in both the cases filed by both the above named widows and the Respondent-Railway Administration had no other option but to comply with the Court's orders. It is humbly reiterated that in the Succession Certificate issued in favour of Smti Kunjalata Das, first wife of Late Baneswar Das, it was specifically mentioned that "out of total amount of Rs.1,49,658.00 the petitioner is entitled Rs.64,139.13 being her share and share of her 2 major sons and of family pension also is entitled by the Petitioner and her sons in the Railway rules @ Rs.900 with effect from 9.6.94 to 8.6.2001 and thereafter Rs.450/- and or admissible as per rule/rules of the Railway Authority's but after the Succession Certificate issued in favour of Smti Chiramai Das there was nothing mentioned for payment the family pension to her but the Hon'ble District Judge, Sibsagar Court directed that 'out of total amount of Rs.1,49,658.00 the Petitioner is entitled to Rs.85,518.84 as the share of her four daughters namely-Boby Das, Bidyabati Das, Junmoni Das and Tutumoni Das". Hence family pension had not been sanctioned in favour of Smti Chiramai Das, the Applicant in the O.A and sanctioned in favour of Smti Kunjalata Das being the first wife and widow of Late Baneswar Das as per Court's order. Hence, there was nothing wrong for the Respondents.

4. That it is submitted that there was a court case for maintaining the family of Late Baneswar Das in the Court of Judicial Magistrate, Barpeta (Assam) in case No.285/M/80 and the Hon'ble Court vide its order dated 13.7.81 ordered that Baneswar Das had to pay Rs.100/- per month to his wife Smti Kunjalata Das with ^{and her 2 sons}

Contd.....P/4..effect...



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7
प्राधिकृत
N.E. Rly. TINSUKIA

//4//

per head

effect from 14.10.80 till the sons attained the age of majority. In another case the Executive Magistrate/Barpeta had certified in the death and heirship certificate and certificate surviving family members of Late Baneswar Das as (i) Smti Kunjalata Das, widow (ii) Sri Dharmeswar Das—son (iii) Sri Dul Das—son, are the legal heirs of Late Baneswar Das—Ex-SSM/Moutgaon.

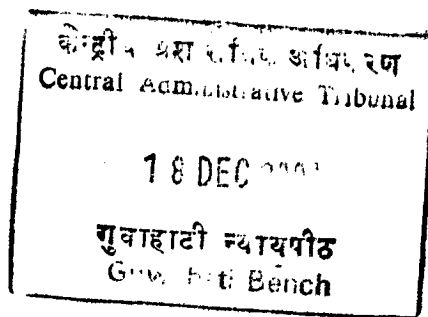
The Photo copies of the above orders are annexed as ANNEXURE- A & B.

5. That it is stated that it appears from the Judicial Magistrate/Barpeta and the Executive Magistrate, Barpeta's orders and certificate mentioned in the foregoing para Smti Kunjalata Das is the only legal wife of Late Baneswar Das. Ex-SSM, Moutgaon married in the year 1967 and in none of the orders of the above Courts at Barpeta the name of the Applicant Smti Chiramai Das or her children appears at anywhere and at any time. Moreover, the deceased Railway employee Baneswar Das also did not mention or given any declaration anywhere, as is evident from the official records from personal case & service record of Late Baneswar Das that he had married to Smti Chiramai Das and the children begotten by her.

6. That it is stated that family pension sanctioned to Smti Kunjalata Das the wife/widow of Late Baneswar Das @ Rs.900/- per month with effect from 9.6.94 to 8.6.01 and thereafter @ Rs.450/- and the family pension consolidated to be of Rs.2757/- as per the 5th Pay Commission's recommendation 1996 till her death or remarriage, which ever is earlier.

7. That in this connection, it is further stated that the sanctioning of the family pension by the Hon'ble District Judge, Sibsagar, in the Succession Certificate was very much within the knowledge of the Applicant Smti Chiramai Das and there was no protest against such sanctioning of the family pension to Smti Kunjalata Das by the Applicant Smti Chiramai Das either in the District Court or after the orders of the Hon'ble High Court to settle the matter in Civil Court of law for the declaration of successors of Late Baneswar Das and to get the benefits admissible as per extant law of the land. There was also no stay order for

Contd....P/5...the..



‘न कार्मिक विभाग’
Te. Counsel Office,
ए. ला. रेलवे, तिनसुकिया
N.F. Rly. TINSUKIA

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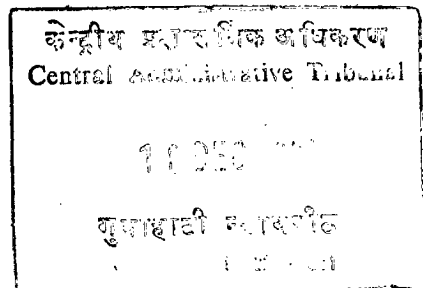
the Respondents-Railway Administration from any Court of law produced by the Applicant Smti Chiramai Das.

8. That it is also further mentioned that in none of the cases and none of the above mentioned disputes the parties made the Railway as the Respondent in respect of releasing of the family pension, DCRG and other retiral dues of Late Baneswar Das, Ex-SSMD/Moutgaon and there was no stay order from any corners in respect of stoppage of the family pension or other retiral dues served to the Respondents. Consequently upon such peculiar circumstances involved between the disputing parties the Respondents Railway-Administration had acted according to the Railway rules and in compliance with the orders of the Courts of law mentioned above and the copies of which annexed both in the OA and also in the Written Statement filed by the Respondents in response to the Original Application.

9. Prayer.

That in the premises above, the Respondents, therefore, respectfully submit that the present application has no merit and, therefore, is liable to be dismissed.

Contd.....P/6.Verification..



VERIFICATION

I, Sri A. Nakayama, son of Sri Agorasingh,
aged about 39 Years, working in the capacity of
Sr. Divisional Personnel Officer, N.F. Railway, I, do hereby
solemnly affirm and verify that the contents of paragraphs 1 to 8 are
derived from the records and I believe them to be true to my knowledge &
information and that I have not suppressed any material facts and the
paragraphs 9 is my humble and respectful submission before this
Hon'ble Tribunal.

And I sign this VERIFICATION on this 14 day of December, 2007.

Place: Guwahati.

Date. 14-12-2007

SIGNATURE OF THE DEPONENT

वरिष्ठ व्यक्ति अधिकारी
Sr. Divisional Personnel Officer
श्री. देवदे, विनयुक्ति

To

The Registrar,
Central Administrative Tribunal,
Guwahati Bench, Guwahati.

7

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True Copy

Copy of order sheet dated 13/07/81

In the Court of Judicial Magistrate 1st class, Barpeta.

Present : Sri S. C. Sarmah
Judicial Magistrate 1st class, Barpeta.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

Case No: - 285M/80

18 DEC 1981

1st Party: Smti. Kunjalata Das.

गुवाहाटी न्यायपीठ
Guwahati Bench

-VS-

2nd Party: Sri Baneswar Das.
U/S 125 Cr. Pc.

Date	Order	Signature
------	-------	-----------

13/07/81 1st party is present & She is heard one-sided. 2nd party is absent. Prima facie the case is proved to be true. It is ordered that with effect from 14/10/80 the 1st party and two minor sons belonging to the 1st party till their attaining the majority of age shall each one of them be paid @ Rs. 100/- per month as grant of maintenance.

Signed.

S. C. Sarmah

Judicial Magistrate 1st class, Barpeta (Assam)

Copied by: -

26/07/94

Certified to be True copy: -

Sd - illegible 26/07/94

Compared by: -

Sd - illegible 26/07/94

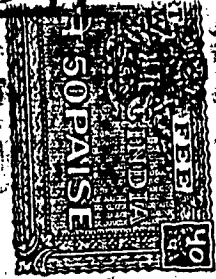
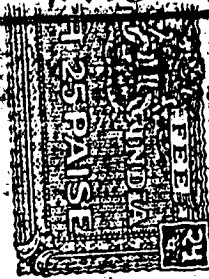
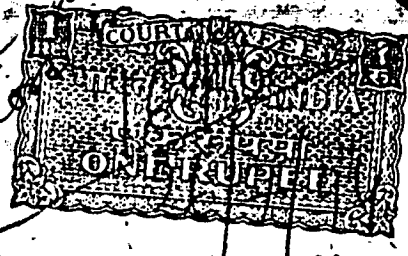
Copyist, CJM. Office Barpeta

Chief Assistant, CJM. office
Barpeta, Assam

Asstt. Office of
CJM, Barpeta

Transcribed from the
attested photocopy of the
order placed below.
M. R. Das
18/7/07
Advocate

Copy on 1st class no.



Date of application for the copy	Date fixed for notifying the requisite number of stamps and folios.	Date of delivery of the requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of making over the copy to the applicant.
26/7/94	26/7/94	26/7/94	26/7/94	29/7/94

Copy of order sheet. Shd-13-7-81.

For the court of Judicial Magistrate 1st class. Barpeta.

Present: Shri S.C. Sarmah.

Judicial Magistrate 1st class. Barpeta.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
18-DEC-2001
गुवाहाटी न्यायपीठ
Guwahati Bench

Case No - 285M/80.

1st Party: - Omri Kunjalata gas.
- vs -

2nd Party: - Sri Bameswar gas.
u/s 125 cr.p.c.

Date	Order	Signature
26/9/85	23-08-20810-6000 70316 176 04207 0101 022 201, 22 1136 112 1 151120 00000- 22 1136 112 1 151120 00000- (Cont-2)	

Handwritten signature/initials

Handwritten signature/initials

年



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DEATH AND NEIRSHIP CERTIFICATE.

Certified that after enquiry I am satisfied that Late _____

Baneswar Das

Design. Ex-RG/ES/MUGN

Resident of Barpeta Khemesah Dist. Barpeta

died on 08.06.94 and the names of his children are given.

1. Smt. Kungalata Das (Major) Widow
2. Sri. Sharmada Das (Major/Minor)
3. Sri. Dil Das (Major/Minor)
4. _____ (Major/Minor)
5. _____ (Major/Minor)
6. _____ (Major/Minor)
7. _____ (Major/Minor)
8. _____ (Major/Minor)

Date: _____
Place: _____



Signature of the Controlling Officer/Sr. Subordinate.

Designation _____

Signature
26.10.94
Barpeta

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

8 DEC 1994

गुवाहाटी न्यायपीठ
Guwahati Bench

Admitted

21/11/94

Be
21/11/94

From:

Sri K.K. Biswas,

Advocate.

Central Administration Tribunal,

Guwahati.

To:

Sri Adil Ahmed,

Advocate,

CAT/Guwahati.

Dear Sir,

Sub: O.A. No. 295 of 200 6

Smt. Chiranjai Das & ors Applicant/Ptitioner

VS.

Union of India and Qrs. -----

Respondents/Opposite Parties.

Kindly acknowledge receipt of the enclosed "Service Copy" for the
Advocate of the Applicant Respondents/Opposite Parties.

With thanks,

Yours faithfully,



(K.K. Biswas)

Advocate,

CAT/Guwahati.

Dated 18/12/ 200 7



18/12/07

113

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI

ORIGINAL APPLICATION NO. 295 OF 2006

Smt. Chiramai Das
and Others.

.....APPLICANTS

- Vs -

The General Manager,
N.F. Railway, Maligaon,
Guwahati - 11 and Others.

.....RESPONDENTS

I N D E X

<u>Sl.No.</u>	<u>Annexure</u>	<u>Particular</u>	<u>Page No.</u>
1	Annexure-I	Order dated 1.7.2002 passed in Misc Succession Case No. 67/95 by the learned District Judge, Sivsagar.	14 to 16

Filed by - D. Das
Ms.D.Das,
Advocate

File in Court on 28-1-08
Court Officer.

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal
2
गुवाहाटी बेंच
Guwahati Bench

Filed by

2032 लख 754
Bulmoni Das
THROUGH
Advocate 28-1-08

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLICATION NO. 295 OF 2006

Smt. Chiramai Das
And Others.

.....APPLICANTS

- Vs -

The General Manager,
N.F. Railway, Maligaon,
Guwahati - 11 and Others.

....RESPONDENTS

The written show cause/objection of Smt. Kunjalata Das
Respondent No.3 against the Original application mentioned in
above filed by the applicants.

MOST RESPECTFULLY SHEWETH :

1. That the application filed by the applicants are not in proper form under the law and Rule and as well as not filed with clear hand. The application is beyond the jurisdiction of law and as such the application is liable to be dismiss in limine with cost.
2. That there is no cause of action ~~to~~ to file the application by the applicants against the respondent as such the application filed by the applicants is liable to be dismiss with cost.

Received
28-1-2008

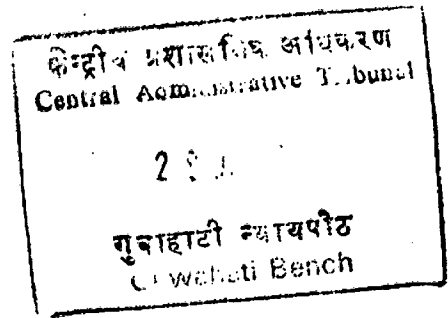
And copy
29-1-08
Advocate

3. That the application of the applicants is barred by limitation under the law and as such liable to be dismiss.
4. That the application is liable to be dismiss for estoppel, acquiescence and waiver.
5. That the applicants filed this application for illegal and unlawful gain which is not sustainable under law as such the application is liable to be dismiss with cost.
6. That the statements made in serial paragraph no. 1 is not just and proper under the law and as such strictly denied. The applicants no. 3, 4 and 5 cannot claim monthly family pension who are illegitimate children's without the proof of born the daughters of applicant no. 1 from the loins of deceased who served in the railway department, under the proper civil court. The respondent No. 3 viz. Smt. Kunjalata Das wife of late Baneswar Das is only entitle to get the family pension from the Railway authority.
7. That the statements made in the serial paragraph no. 2 ^{*The respondent has*} no comment and leave to your Hon'ble Tribunal.
8. That the statements made in the serial paragraph no. 3 the respondent begs to state that the application is strictly barred by limitation under the law, moreover the applicants filed objections/case one after another against the Respondent for illegal and unlawful gain and ~~and~~ for which the petitioner suffers pecuniary and non-pecuniary losses.

The application is clearly barred by limitation under section 21 of the Administrative Tribunal Act, 1985. The original application case filed without any condonation petition for condoning the delay to file

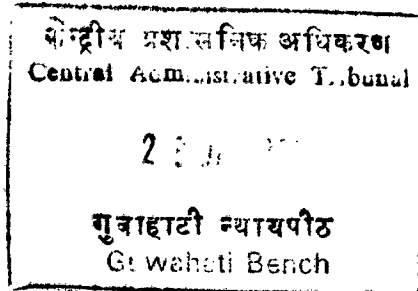
the original application case before the Hon'ble Tribunal, as such the application is liable to be dismiss.

9. That the statements made in serial no. 9 of the original application i.e. the head of FACTS OF THE CASE, the Respondent states that the facts enunciated by the applicants are not wholly true and correct. The applicants not come before the Hon'ble Tribunal with clear hand as such the respondent denied all averments except which are specifically admitted or partly admitted in respect of the contents enunciated by the applicants in their application.
- 9(1). That the statements made in paragraph serial No. 4(1) of the application; the Respondent admitted the same.
- 9(2). That the statements made in serial No. 4(2) of the application is not true and correct and strictly denied that the applicant No.1 is wife of late Baneswar Das, Ex.Senior Station Master, Mahutgaon Railway Station, Simlaguri, District Sivsagar, Assam and the statements made that the applicants No.2 to 5 are the daughters of late Baneswar Das is also strictly denied.
- 9(3) That the statement made in Serial No. 4(3) of the application is not true and correct and as such the same is strictly denied. That there is no cause of action for filing this application, the Respondent further states that the applicants filed this application for unlawful gain as well as after the prescribed period of time under law.
- 9(4) That the statements made in Serial No. 4(4) of the application it is true that late Baneswar Das husband of the Respondent No.3 died on 8.6.1994 who was senior station Master, Mahutgaon under the Railway Divisional Manager (Personal), N.F. Railway, Tinsukia. It is



categorically denied that the applicant no.1 was the wife of late Banerwar Das and others are strictly denied.

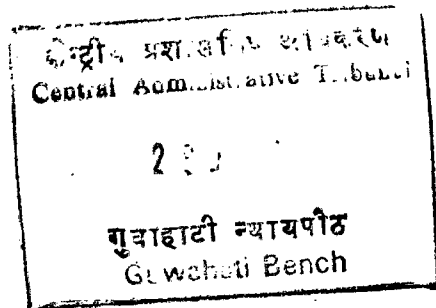
- 9(5) That the statements made in Serial No. 4(5) of the application it is correct that the Respondent No.3 Smt. Kunjalata Das is the wife of late Banerwar Das and out of their wedlock Sri Dharmeswar Das and Sri Dul Das i.e. the Respondent No. 4 and 5 were born. It is categorically denied that the Respondent No.3 has any source of income for her livelihood.
- 9(6). That the statements made in Serial No.4 (6) of the application filed by the applicants is strictly denied that Late Banerwar Das got married with Applicant No.1 i.e. Smt. Chiramai Das in accordance to Hindu Religions rites and customs. It is also strictly denied that the 4 daughters were born through late Banerwar Das. The applicant No.1 Smt. Chiramai Das cannot claim as second wife of late Banerwar Das. The applicants with ulterior motive with collusion and for unlawful and illegal gain filed this application.
- 9(7). That the statements made in Serial No 4(7) of the application by the applicants are not wholly true and correct but partly true and correct. The applicants did not filed the application with clear hand before the Hon'ble Tribunal. The Respondents states that there was no dispute with any body but the applicant no.1 with collusion made some dispute for unlawful and illegal gain. It is true that the Respondent No.3 has filed Succession Certificate before the learned District Judge, Sivsagar for debts and securities of the deceased husband late Banerwar Das. The said Succession application has registered and numbered as Misc (J) Case No. 67 of 2005. It may be mentioned here that the applicant no.1 illegally for unlawful gain claimed for debts



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and securities before the Railway Authority. The applicant no.1 filed objection against the Succession Case filed by the Respondent No.3 Smt. Kunjalata Das wife and legal heir successor of late Baneswar Das. The learned District Judge after hearing the parties delivered the judgment and by which granted the Succession certificate to Respondent No.3, Smt. Kunjalata Das holding that the illegitimate daughters of applicant No.1 may raise before the Civil Court for their grievances.

- 9(8). That the statements made in Serial No. 4(8) of the application by the applicants it is true that the applicants has filed appeal before the Hon'ble Gauhati High Court against the judgment and order of the learned District Judge passed in Misc Succession Case No. 67/95. The said appeal was registered and numbered as Misc Appeal First No. 149/96. After hearing the parties the Hon'ble Gauhati High Court modified the impugned judgment of the learned District Judge Sivsagar to the extent that the daughters of Smt. Chiramai Das are also entitled only to get the debts and securities and accordingly directed to issue Succession Certificate after getting indemnity bond from the daughters of Smt. Chiramai Das. The Hon'ble High Court also passed order for deciding the other matters ^{give liberty} to ~~file~~ regular suit ~~and for the purpose of the said suit~~. That the Respondents states that against the said judgment of the Hon'ble High Court the Respondent No.3 filed a Letters Patent Appeal before the Hon'ble Gauhati High Court by which sustained the judgment of the Hon'ble Single Judge. But it was clear that the Honble Gauhati High Court in both the cases passed judgment to file suit for getting actual position of the marriage,

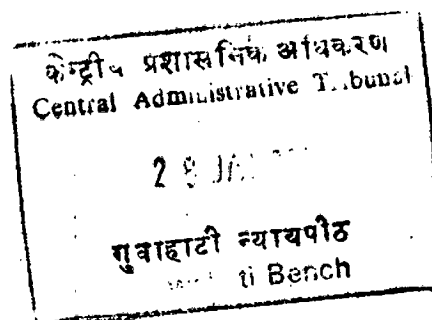


wife etc., as such the applicants cannot claimed as second wife as well as the children's were born from late Baneswar Das.

- 9(9) That the statements made in Serial No. 4(9) of the application by the applicants, the Respondent states that in view of the appeal of the Hon'ble Gauhati high Court the applicant No.1 filed application before the learned District Judge, Sivsagar for Succession Certificate in respect of part of the debts; although the Hon'ble High Court in MAF No. 149/96 allowed to get Succession Certificate by the daughters of Smt. Chiramai Das, applicant no.1. It may mention here that the applicant No.1 by way of misrepresentation able to get the succession certificate, Annexure-D (of the Original Application No. 295/06) from the learned District Judge, Sivsagar.

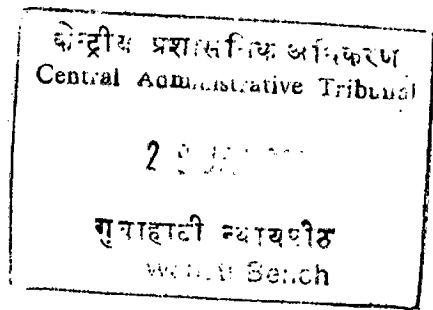
The Respondent against the said Succession Certificate (Annexure-D) filed an application in the Misc. Succession Case No. 67/95 that the learned District Judge, Sivsagar wrongly issued the said succession certificate against the order of the Hon'ble Gauhati High Court in the name of Smt. Chiramai Das i.e. applicant No.1. The learned District Judge, Sivsagar by the order dated 1.7.2002 modified the order as the use of word "wife of Late Baneswar Das" is only for the limited purpose to draw the debts and properties mentioned in the Succession Certificate and not beyond that the learned District Judge also passed order that if Smt. Chiramai das claims for any more property she may approach ^{to} a competent Civil Court and obtain a declaration of the status as a legally wedded wife of the deceased.

A copy of the order dated 1.7.2002 passed in Misc Succession Case No. 67/95 by the learned District Judge, Sivsagar is annexed herewith and marked as ANNEXURE - I.



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- 9(10) That the statements made in Serial No. 4(10) of the application by the applicants, the Respondent states that the applicant has filed the application before the Railway authority against the order of Hon'ble Gauhati High Court by which obtained illegally succession certificate and as such by the illegal succession certificate, they cannot claim any property.
- 9(11) That the statements made in serial No. 4(11) of the application although the Respondent has no comment but the matter is relating to the Railway Authority.
- 9(12) That the statements made in Serial No. 4(12) of the application, the Respondent states that the applicant no.1 has no right and authority to file application for pro-rata family pension for her daughters being a second wife of late Baneswar Das. The said representation Annexure-G of the Original application No. 295/06 is for illegal and unlawful gain.
- 9(13) That the statements made in Serial No. 4(13) of the application by the applicants, the respondent states that as per orders of the Hon'ble Court the Railway Authority has paid the debts and sureties of Late Baneswar Das. The family pension is not entitled to get by the illegitimate children's of Smt. Chiramai Das. Moreover the Hon'ble Court also did not pass any order to pay family pension to the illegitimate childrens of Smt. Chiramai Das. The Railway Authority, i.e. Respondent No.1 in the Annexure - H of the Original application wrongly mentioned Smt. Chiramai Das as second wife which is against the order of the learned District Judge dated 1.7.02 i.e. Annexure-I as well as Judgment and order of Hon'ble Gauhati High Court.

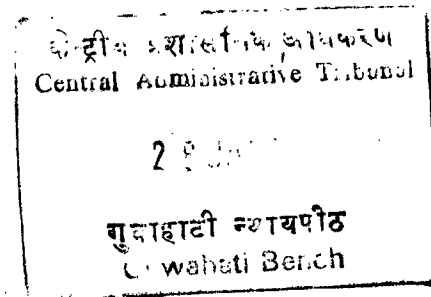


The Respondent further states that the applicants knowingly and deliberately suppressed the order-dated 01.7.2002 passed in Misc (Succession) Case No. 67/95 by the learned District Judge, Sivsagar before your Hon'ble Tribunal only for illegal and unlawful gain.

9(14) That the statements made in Serial No. 4(14) of the application, the Respondent has no comment as the Railway Authority has paid portion of debts to the parties in view of the Hon'ble Courts judgment/order. The Respondent further denied that Smt. Chiramai Das is ~~not~~ the second wife of late Banerwar Das and the family pension are ~~not~~ entitled to get by the unmarried illegitimate daughters.

9(15) That the statements made in Serial No. 4(15) of the application the Respondent begs to state that this original application is clearly barred by limitation. The Hon'ble Gauhati High Court by order dated 17.8.06 in W.P.© No. 3878/2001 passed order as the writ petition is not entitled before the Hon'ble Gauhati High Court as the subject matter is the jurisdiction of the Hon'ble Administrative Tribunal. The applicants ~~and not~~ filed the original application without any delay petition for condoning the delay, as such the application is liable to be dismiss with cost.

9(16) That the statements made in Serial No. 4(16) of the application, the Respondents categorically denied the same that the children's born from Smt. Chiramai Das, applicant No.1 is ~~not~~ recognized from the Civil Court that the daughters are born from that lions of late Banerwar Das. It is categorically denied that the illegitimate children's of applicant no.1 ~~cannot~~ claim the pensionary benefit against the legal lawful wife.



9(17). That the statements made in Serial No.4 (17) and 4(18) of the application, the Respondent denied categorically that the applicant No.3 to 5 are entitled to get the pensionary benefit. The Respondent further stated that the applicant no.1 cannot claim as second wife of late Banerwar Das and other statements are denied and put to strict proof thereof.

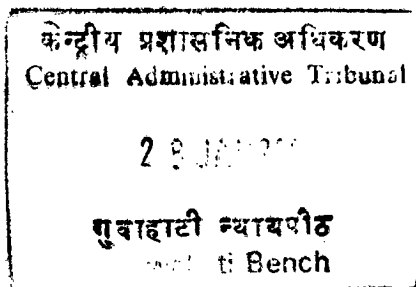
9(18) That the statements made in Serial No. 4(19) to 4(24) of the application, the Respondent states that the application made by the applicants is only for illegal and unlawful gain and also to harass the respondent no.3 for getting the pensionary benefit.

10. That the grounds made in Serial No. 5 i.e ground for relief with legal provision made by the applicants, the Respondents strictly denied and submit that the applicants are not entitled to get any relief under the law.

10(1). That the grounds made in Serial No. 5(1) of the application, the Respondent beg to states that the original application filed by the applicant is wholly illegal, unlawful and without jurisdiction against the relief claimed by the applicants.

10(2). That the grounds made in Serial No. 5(2) of the application, the Respondent begs to state that by the order dated 1.7.2002 in Misc Succession Case No. 67/1995 Annexure-(I) in view of the orders of the Hon'ble Gauhati High Court the learned District Judge passed order that they can not claim more properties by the Succession certificate issued in favour of the daughters of Smt. Chiramai Das, as such the said ground is against law passed by the Hon'ble Courts.

10(3) That the grounds made in Serial no. 5(3) to 5(6) of the application are strictly denied and the applicants are not entitled to get the pensionary



benefit under the law. The applicant no.1 cannot be claimed as second wife and applicant nos. 2 to 5 cannot claimed as legal heirs of late Baneswar Das. The learned court clearly mentioned the applicant no. 2 to 5 are illegitimate daughter of applicant no.1 and they cannot claim as Class I legal heirs along with the Respondent Nos. 3 to 5. The Respondent No.1 and 2 under the law and equity cannot allow family pension to the applicant nos 3 to 5.

10(4) That the grounds made in Serial No. 5(7) and 5(8), the respondents states that there is no any violation of the provision of Articles 14,16 and 21 under the Constitution of India, the application of the applicant is liable to be dismiss with compensatory costs.

11. That the statements made in Serial no. 6 i.e. details of the remedies exhausted, the Respondent begs to state that the application is not for justice and the application is clearly barred by limitation and so under the law cannot be entitled to get relief by the applicants.

12. That ~~the~~ statements made in Serial No. 7 i.e matters not ~~previously~~ filed or pending in any other court, the Respondent categorically denied the said statements as because the applicants has filed writ petition before the Hon'ble Gauhati High Court being MAF No. 149/96 which is Annexure-B, (statements made in 4.8); further more, the applicants are also filed writ petition being W.P.© No. 3878/2001 before the Hon'ble Gauhati High Court. The Hon'ble High Court by the order dated 07.8.2001 in W.P.© No. 3878/01 passed order that the writ petition filed by applicants is not maintainable. Annexure-I of the original application filed by the applicants (statements made in 4.15 of the application). The applicants made false statement before your Hon'ble Authority for their fulfillment of illegal gain.

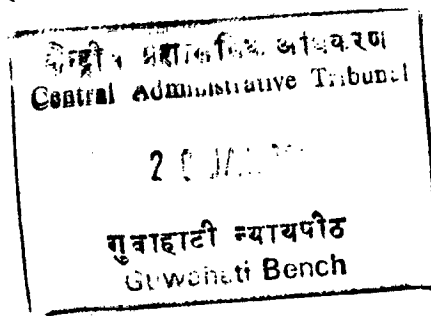
13. That the statements made in Serial No. 8 of the applicants i.e. Relief sought for the respondent begs to state that the applicants No.1 and 2 illegally and unlawfully claim ^{benefit} for applicants No.3 to 5 ^{without proving} as legal heir of Late Baneswar Das. Moreover, the legal wife in respect of pensionary benefit who is till survive is entitle to get the same. The Respondent further begs to states that the application filed ^{is} against the law and for illegal and unlawful gain, as such the same is liable to be dismiss with compensatory costs to the Respondent.
14. That the statements made in Serial paragraph No. 9, the Respondent begs to state the applicants not entitle to get any relief.
15. That the statements made in serial paragraph Nos. 10,11 and 12 of the ^{the respondent} applicants has no comment as the same ^{is} within the jurisdiction of the Hon'ble Tribunal itself.

From the above circumstances the Respondent prayed that your Lordship be pleased to dismiss the application filed by the applicants with compensatory cost to the Respondent.

And for this act of kindness, the Respondent shall ever pray.

VERIFICATION

I, Smt. Kunjalata Das, wife of Late Baneswar Das, aged about 61 years, occupation as Housewife, residing at Kumarhati, P.O. Barpeta, District Barpeta, Assam do hereby solemnly affirm, declare and stated that the statements made in paragraphs No. 1(1), 5, 6(1), 8(1), 9(2), 9(3), 9(4), 9(5), 9(6), 9(7), 9(8), 9(9), 9(10), 9(11) are true



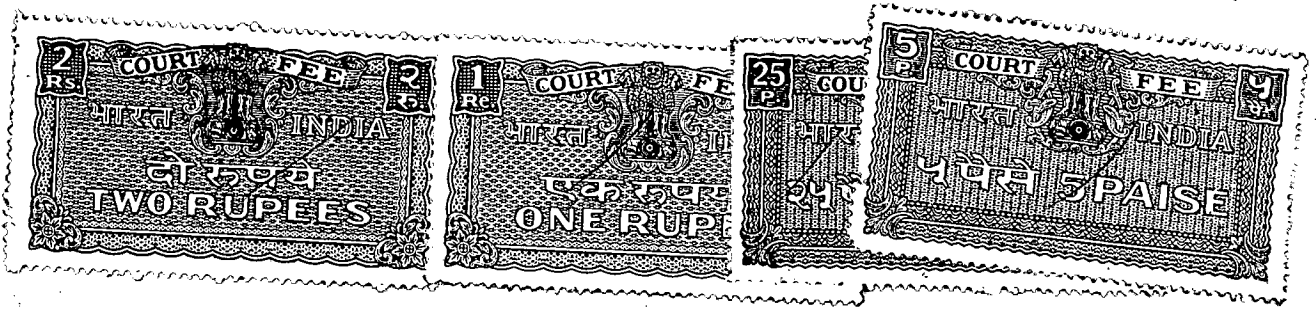
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to my knowledge and belief and the statements made in paragraphs No. 9(3)pt, 9(7)pt, 9(8), 9(9)pt, 9(12), 9(14), 9(15)pt, 10, 11, 12, are true to my knowledge and belief which are derived from record and information and the other statements are my humble submission before your Hon'ble Court.

I sign this verification on theth day of January, 2008.

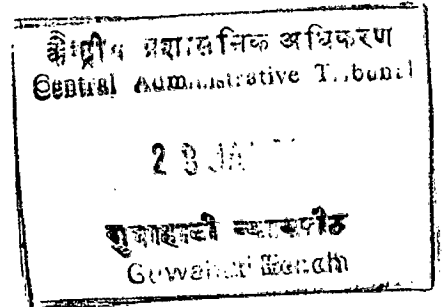
श्री कृष्ण लाल मश

Affidavit.....



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AFFIDAVIT



I, Smt. Kunjalata Das, wife of Late Baneswar Das, aged about 61 years, occupation as Housewife, residing at Kumarhati, P.O. Barpeta, District Barpeta, Assam,

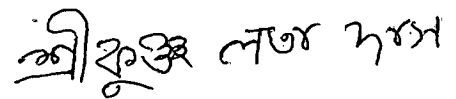
do hereby solemnly affirm, declare and stated as follows :

1. That, I am the respondent No.3 of the above noted Original application No. 275/06 pending before your Hon'ble Central Administrative Tribunal, Guwahati bench, Guwahati, and as such I am acquainted with the facts and circumstances of the case.
2. That the statements made in the written show cause/objection in paragraphs No. 1 pt, 5, 6 pt, 8 pt, 9(2), 9(3) pt, 9(4), 9(5), 9(6), 9(7) pt, 9(9) pt, 9(10) and 9(18) are true to my knowledge and belief and the statements made in paragraphs No. 9(3) pt, 9(7) pt, 9(8), 9(9) pt, 9(12), 9(13), 9(14), 9(15) pt, 10, 11 and 12 Are true to my knowledge and belief which are derived from record and information and the other statements are my humble submissions before your Hon'ble Tribunal.

I sign this affidavit on the 28 th day of January, 2008.

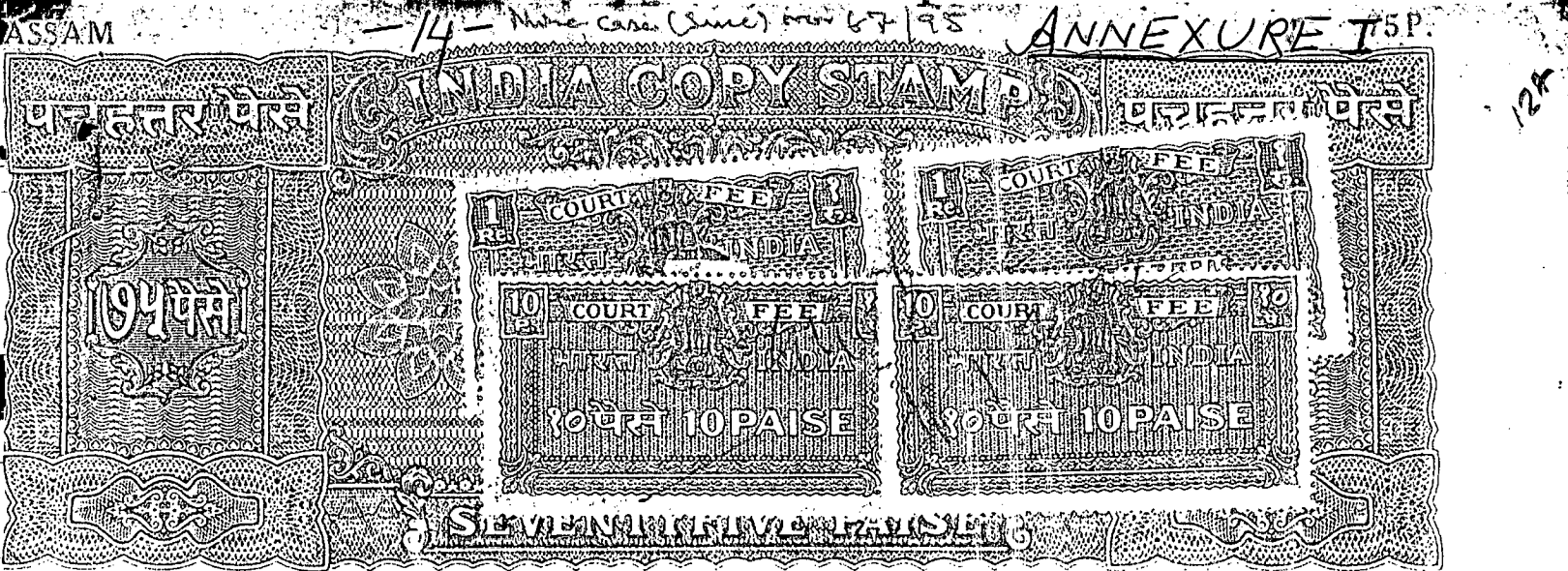
Identified by me


Advocate



Deponent





प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
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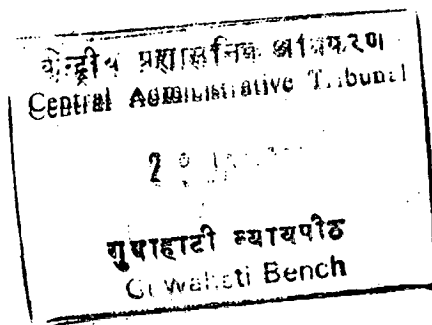
From the Court of District Judge Sivabagar

Smt. Kunjalata Das

Misc. Suce. 67/95

Smt. Chinnam Das & others

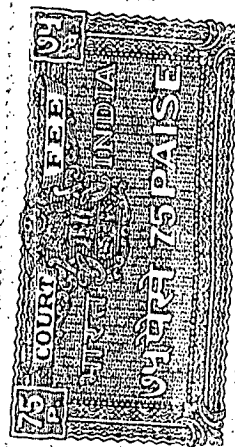
Present: Sri B. D. Agarwal
District Judge
Sivabagar



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केन्द्रीय प्रशासनिक अपिल
Central Administrative Tribunal

23/07/2002

गुवाहाटी न्यायपीठ
Guwahati Bench

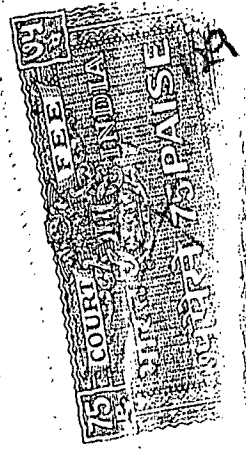
1.7.2002.

The petitioner Smti Kunjalata Das is present. However, the objector, namely, Smti Chiramai Das is absent without any step.

Heard Shri B.N. Sharma, Id. counsel for the petitioner. Also seen the petition No.722/ dtd. 9.10.2001 filed by the petitioner Smti Kunjalata Das seeking correction of the succession certificate, granted to the objector Smti Chiramai Das.

The petitioner was initially granted succession certificate for the entire debts and properties of the deceased, amounting to Rs.1,49,658/- along with family pensions. The order of this court, granting succession certificate to the petitioner was challenged before the Hon'ble Gauhati High Court by Smti Chiramai Das. The appeal was registered as

গৌহাটি হাইকোর্ট
Central Administrative Tribunal



1.7.2002.

M.A.(F) No. 149/96. The said appeal was partly allowed on 4.8.97 and this court was directed to include the names of four daughters of Smti Chiramai Das while granting succession certificate. This Judgement of the Single Bench was again challenged by the petitioner which was registered as LPA No. 51/97. This R LPA case was dismissed on 13.10.99. Thereafter, two separate succession certificate cases were issued from this court. The certificate of Smti Chiramai Das is dated 23.3.2000 whereas the certificate of Kunjalata Das is dtd. 17.2.2000. Both the parties have been granted succession certificates for their respective shares.

It is true that the succession certificate of the objector has been issued in the name of Smti. Chiramai Das but she has been authorised to draw a sum of Rs.85,518.84 on behalf of her four daughters. Smti Chiramai Das has also submitted an indemnity bond for the said money.

Shri Sharma, ld. counsel for the petitioner, submitted that in the succession certificate Smti Chiramai Das has been shown as the wife of the deceased Baneswar Das and on this basis she is claiming her status and rights over the remaining property of the deceased. Only on this point the petitioner is seeking correction of the certificate.

In the judgement dtd. 4.8.97 the Hon'ble Gauhati High Court has observed that Smti. Chiramai Das has made out a prima-facie case at least for the grant of succession certificate, simultaneously with her daughters. The Hon'ble High Court has also hold that the question of ^{legality of her} ~~valid~~ marriage can be decided only through a regular civil suit. (Para 5). Hence, the use of the words 'wife of late Baneswar Das' is only for the limited purposes to draw the debts and properties mentioned in the succession certificate and not beyond that.

If Smti Chiramai Das claims for any more properties she may approach a competent civil court and obtain a declaration of her status as a legally wedded wife of the deceased.

With the above clarification the petition is disposed of.

Typed to dictation and corrected by me, bearing my signature on each page.

B.D. AGARWAL
(B.D. AGARWAL)
DISTRICT JUDGE,
SIVASAGAR.

Certified to be True Copy
Roop Kishore
Sheriff 01/07/2002
Dist. & Sess. Judge, Sivasagar.

Witnessed by
B.D. Agarwal
District Judge,
Sivasagar.