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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)
Signature: *Barhali*
Date: 29/11/17
C.B.P.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 309/2006
2. Misc. Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Pankajini Das vs Union of India & Ors
mt

Advocate for the Applicant(s) Mr. M. Das
Mr. S. Nath

Advocate for the Respondent(s) Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed C. F. for Rs 50/-
deposited vide L.P.C.B.D
No. 206.141828

Dated 16-12-06

Given
Dy. Registrar

20.12.06. This is an application filed by the applicant, one for grant of family pension and other for compassionate appointment. As per CAT Rules, Mr. M. Das learned counsel for the applicant has submitted that he is not pressing for compassionate appointment and therefore he has confined his reliefs to pensionary benefits only. The claim of the applicant is that the deceased was engaged by the respondents from 27.4.1966 to 5.11.1977 more than 10 years. There was an intermittent break of service when he was discharged on 08.5.74 for participation in Railway Strike in May,74 and he was re-engaged before 11.6.77 condoning the period of absence. The employee died in harness and the deceased employee is entitled to get the pensionary benefits.

27.12.06

Copy of the order dated
20.12.06 with Reg. No. 135/06 issued
to the Advocate for the
applicant vide no. _____
dated _____.

N.S.
27.12.06

20.12.06

Pl. comply order
dated 20.12.06.

NT
22.12.06

Notice & order sent
to D/Section for
issuing to resp.
nos. 1 to 4 dep.
regd. A/D post.

(cc) D/N-38 to 41
2/1/07 DT- 12/1/07

LM

Considering the issue involved in
this case I am of the view that the
application has to be admitted.

Application is admitted. Issue notice
on the respondents. Post the matter on
5.2.07.

Copy of this order be furnished to
the counsel for the parties.

Vice-Chairman

5.2.2007 Counsel for the Respondents
requests for four weeks time to file
reply statement.

Post on 05.03.2007.

① Service report
awaited.

22/07

Vocalarama was
been filed by Smt.
B. Devi, Rly Counsel
NT
5.2.07

/bb/

Vice-Chairman

5.3.07. Counsel for the respondents has
submitted that bereavement in the family
of the respondent counsel for filing the
written statement. Let it be done. Post
the matter on 4.4.07.

Vice-Chairman

Notice for Resp. no-3
received back as
un served with
a postal remark
"Designation not correct
hence refused dep the
addressee".

1m

4.4.07. Post the matter on 23.5.07.

(cc)
6/2/07.

Notice duly served
on R-2, 4.

No w/s has been
filed.

Vice-Chairman

9.4.07
no w/s filed
2.3.07.

Notes of the Registry	Date	Order of the Tribunal
No W.Ls was been filed.	23.5.2007	Mr.S.Nath, learned counsel submits that he is appearing for the Applicant Learned Railway counsel Mrs. B. Devi was represented and submitted that the matter is of 30 years old and therefore, records could not be traced and sought further time to file reply statement. Six weeks' time is granted for the same.
W.Ls not filed.	5.7.07	Post on 6.7.2007.
W.Ls filed page 1 to 6.6pm not served.	6.7.2007	Vice-Chairman /bb/ Learned counsel appearing on behalf of Mrs.B.Devi, learned Railway counsel submitted that reply statement is being filed today. Let it brought on record if it is otherwise in order. Copy of the same shall be furnished to the learned counsel for the Applicant.
Rejoinder not filed.	20.7.07	Post the case on 23.7.2007. In the meantime Applicant is at liberty to file rejoinder, if any.
Rejoinder not filed.	30.8.07	Vice-Chairman /bb/ Post the matter on 9.8.07.

Vice-Chairman

OA 309/06

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Notes of the Registry	Date	Order of the Tribunal
		31.8.07 Four weeks time granted to the respondents for filing written statement.
		Post on 5.10.07 for order.
① Wks bilal. ② Rejoinder not filed.		Vice-Chairman
	pg 4.10.07	
		On the prayer, on behalf of Mr.P.K.Tiwari learned Counsel appearing for the applicant this matter is adjourned and to be taken up on 16.11.07.
		(Khushiram) Member(A)
		(Monoranjan Mohanty) Vice-Chairman
	lm	

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 the Applicant that in this case no rejoinder is necessary and this matter may be listed for hearing in the month of December, 2007. Mr.M.K.Boro, Advocate (representing on behalf of Smti B.Devi, learned Railway Counsel appearing for the Respondents) states that matter should be fixed for hearing on some other day, so that Railway case can be properly placed.

In the said premises, call this matter on 03.12.07 for hearing.

30
30.11.07

K
(Khushiram)
Member(A)

M
(Monoranjan Mohanty)
Vice-Chairman

lm

03.12.2007

Heard Mr.M.Das learned counsel for the Applicant and Mrs. B. Devi, learned Railway counsel for the Respondents.

Hearing concluded. Order reserved.

K
(Khushiram)
Member(A)

M
(M.R.Mohanty)
Vice-Chairman

lm

07.12.2007 Judgment pronounced in open court, kept in separate sheets.

The O.A. is allowed to the extend indicated in the order. No costs.

K
(Khushiram)
Member (A)

M
(M.R.Mohanty)
Vice-Chairman

/bb/

18.3.08

U

Final ride

2/100s 175 to 179.

2/11.08

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.309 of 2006

DATE OF DECISION: 07.12.2007

Shrimati Pankajini Das

.....
Mr. Manoranjan Das

.....Applicant/s

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

U.O.I. & Ors

..... Versus -

..... Respondent/s

..... Mrs. B. Devi, Railway Counsel.

..... Advocate for the
Respondents

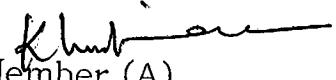
CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Judgment delivered by


Vice-Chairman/Member (A)

OA

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 309 of 2006

Date of Order: This, the 07th Day of December, 2007

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Shrimati Pankajini Das
Age 52 years
W/o Late Joy Kumar Das (Ex-Gangman)
Resident of Village & P.O: Bakrihawar Part-III
P.S: Algapur, District: Hailakandi
Assam.

..... Applicant.

By Advocate Mr. Manoranjan Das.

- Versus -

1. The Union of India
Represented by the General Manager
N.F.Railway, Maligaon.
P.O: Guwahati-781 011
Assam.
2. The Divisional Railway Manager (P)
N.F.Railway, P.O: Lumding
District: Nagaon, Assam.
3. Welfare Officer
N.F.Railway, P.O: Badarpur
Dist: Karimganj
Assam.
4. Section Engineer
N.F.Railway, P.O: Harangajao
Dist: N.C.Hills, Assam.

..... Respondents

By Mrs. B.Devi, Advocate for the Railways.



ORDERKHUSHIRAM, [MEMBER (A)]

The Applicant, is the widow of a deceased Railway employee, has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, for a direction to the Respondents for grant of family pension since 06.11.1977.

2. According to the Applicant, her husband late Joy Kumar Das entered into Railway Services on 27.04.1966 as a casual worker and worked as a Watchman; that he was conferred with temporary status on 18.11.1967; that he was discharged from services on 08.05.1974 for participating in Railway Strike in May, 1974 and that he was re-engaged before 11.06.1977 (by condoning the period of his absence, consequent to 'Strike'); that he was restored with his last pay of Rs. 202/- in the scale of pay of Rs.196-232/-; that he died on 05.11.2007 in harness in the Railway Hospital at Badarpur of Karimganj district; that he had completed more than 10 (ten) years of regular service from 27.04.1966; for which the Applicant (as his widow) is entitled to family pension. Applicant submitted claim for family pension way back on 23.08.1978 (Annexure-2) but the same has not been approved so far; for which she has filed this Original Application. The Applicant has also claimed interest @ 12% per annum from 01.01.1979 on arrears.
3. Applicant has filed a copy of the letter dated 03.09.1998 (Annexure-A1) issued by the Section Engineer (N.F.Railway), Harangajao (Respondent No.4) addressed to the Divisional Railway Manager (P) of Lumding Division of N.F.Railway (Respondent No.2) relating to the service particulars of late Joy Kumar Das; wherein it has been disclosed that his date



of appointment was 18.11.1967 and that he was discharged on 08.05.1974 for participation in (May'74) Railway Strike and that he was re-engaged before 11.06.1977. As per the said Annexure-A1, his last pay was Rs.202/- (Rs.196-232/-). It is also mentioned in the said Annexure-A1 that "exact date of re-engagement is not available in this office record. Most probably the same was recorded in his Service Book & P/Case which has already been submitted to your office after his death for FS clearance." However, service of about 10 (ten) years is stated to have been rendered by the deceased as per details in the said Annexure. Annexure-A4 at Page-28 of the O.A. is regarding resumption of duty which says, "You are taken back to duty on regular scale of pay. Please report to PWI/DCA immediately."

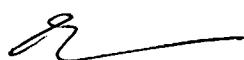
4. The Respondents have filed their reply statement admitting that Late Joy Kumar Das had entered in service on 18.11.1967 as Gangman/Watchman and was discharged on 08.05.1974 for participation in May'74 Railway Strike. The deceased, on his discharge, was paid an amount of Rs.479/- as final settlement due to him vide office order No.18LP dated 02.11.1976. He was re-engaged before 11.06.1977. It has been stated that the Applicant could not produce any documentary evidence on which date her deceased husband resumed duty. The fact of last pay of Rs.202/- (in the pay scale of Rs.196-232/-) drawn by the deceased (on his reinstatement/re-engagement) has not been denied by the Respondents in their written statement. It has been stated by the Respondents that, "it can be presumed that till 26.4.77 Joy Kumar Das did not resume his duty" and that he was enlisted for absorption in regular post as Watchman; but could not be posted, as he passed away on 05.11.77 and that, therefore, the Applicant is not entitled for family pension as per Rule 14 of the Railway



✓

Service Pension Rules, 1993. It was also contended by the Respondents that the Applicant has filed this case after 29 years and, therefore, it is hopelessly barred by limitation.

5. Heard Mr. Manoranjan Das, learned counsel appearing for the Applicant and Mrs. B.Devi, learned counsel for the Railways. Learned counsel for the Applicant invited our attention to the documents produced by the Applicant and submitted that the claim of the Applicant has been denied by the Respondents without any specific documentary proof. Learned counsel for the Respondents supported the contentions made in the written statement. Besides limitation, she argued that the Applicant does not have sufficient documents to prove the claim.
6. In the written argument learned counsel for the Applicant has submitted that Applicant had filed an M.P. No.135/2006 along with this O.A. for condoning the delay in filing this O.A. This Hon'ble Tribunal vide its order dated 20.12.2006 allowed the M.P. No.135/2006 condoning the delay. In support of the contention, learned counsel for the Applicant referred to Annexure-A1 dated 03.09.1998 written by Section Engineer, Harangajao which attested the fact that the deceased was re-engaged and that his service book & P/Case has been submitted to the Respondent No.2 after his death for FS clearance. Similarly, Annexure-A4, which was received on 28.06.1975, has been signed by "P. Wey, Inspector" showing designation of the deceased as Watchman, date of appointment as 27.04.1966 CPC 18.11.1967, "sanction No.123 prove". Similarly, the letter of May, 1977 (Annexure-A4) was issued (by the Divisional Superintendent (P), N.F.Railway, Lumding) to the deceased saying, "You are taken back to duty on regular scale of pay." Learned counsel for the Applicant argued that the deceased



had completed 10 (ten) years of regular/pensionable service and died in harness and, therefore, Applicant is entitled to family pension as per Rule 14 of Railway Service Pension Rules, 1993. Learned counsel for the Applicant referred to Rule 18(3) of the Bahri's Rail Services (Pension) Rules, 1993 which is reproduced herein below:-

"(3) In the event of death of harness in a temporary railway servant his family shall be eligible to family pension and death gratuity on the same scale as admissible to families to permanent railway servants under these rules."

The argument of the learned counsel for the Applicant regarding entitlement of family pension as per Railway Services (Pension) Rules, 1993 is not applicable in this case as the deceased had died in 1977 when the said Rules had not come into existence. However, Rule 18(3) of the aforesaid Rules entitles the widow of the deceased to get family pension; as the deceased had died in harness. Sub-Rule 3(b) of Rule 231.1 of the Indian Railway Establishment Manual Vol-II published on 01.08.1960 reads as under:-

"(b) The widow/widower/minor children of a temporary Railway servant, referred to in the preceding sub-para, who dies while in service after a service of not less than one year continuous (qualifying) service shall be eligible for a family pension under the provisions of para 801 of the Manual of Railway pension Rules. In their case the amount of death gratuity admissible will be reduced by an amount equal to the employee's two months pay on which the death gratuity is determined."

The service particulars of the deceased employee given in the letter dated 03.09.1998 (Anneuxre-A1) by the Section Engineer, Harangajao are apparent and proves that the details relating to the deceased employee are not false. The Advocate for the Applicant has also relied on the views of

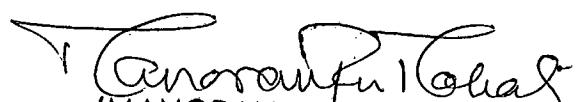


the Hon'ble Apex Court of India rendered in the case of Prabhavati Devi (reported in 1996 (32) ATC 515 and that of this Tribunal rendered at its Ernakulam Bench in the case of Thresiakutty Lonappan and Another (reported in 1996 (34) ATC 584) and that of Calcutta Bench rendered in the case of J.B.Bera (reported in 1993 (25) ATC (254) to say that the Applicant was entitled to family pension.

7. In view of the forgoing discussions, we direct the Railway Authority to reconsider the matter in the light of the facts and rules, as mentioned above, afresh, for grant of family pension sympathetically within a period of three months from the date of receipt of this order (from the date it was due) with arrears plus interest @ 6% till the final settlement of the claim.

8. The Original Application is allowed to the above extent. There shall, however, be no order as to costs.


 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 (MANORANJAN MOHANTY)
 VICE CHAIRMAN

/BB/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH, GUWAHATI.

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

Original Application No

गुवाहाटी न्यायालय
Guwahati Bench

Smt. Pankajini Das.....Applicant - Vs - UOI & Others 309/06 Respondents

Application under section 19 of the Central Administrative Tribunal Act 1985.

INDEX

SL.NO	Particulars	Annexure No	Pages	Total Page
1.	Application	---	1-8	8
2.	Valuation note		9	4
3.	Copy of Section Engineer Letter Dtd 03.09.98	Annexure A-1	10	1
4.	Copy of Application for family Pension dtd 23.8.78.	Annexure A-2	11-19	9
5.	Copy of Pleader's Notice dtd 6.01.05.	Annexure A-3	20-25	6
6.	Copy of appointments details	Annexure A-4	26-28	3
7.	Copy of Provident fund Balance Sheet Dtd 71-75.	Annexure A-5	29-31	3
8.	Copy of letter from DRM (P) Lumding dtd 25.4.97.	Annexure A-6	32	1
9.	Representation to GM by applicant dtd 31.8.2002	Annexure A-7	33-36	4
10.	Copy of Death Certificate of Joy Kr. Das dtd 09.10.79.	Annexure A-8	37	1

Filed by

Niranjan Das.

Advocate

Pankajini Das.
Applicant

Filed on :

Registration No:

Signature of Registrar

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Pankajini Das

Filed by
C/o
Monoranjan Das
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH,

GUWAHATI.

Original Application No..... of 2006.

Application under section 19 of the Central Administrative Tribunal Act, 1985.

BETWEEN

Shrimati Pankajini Das, age 52 years,
W/O Late Joy Kumar Das, (Ex-Gangman)
Resident of Village & PO Bakrihawar Part-III,
PS- Algapur, District:-Hailakandi, Assam.

.....Applicant

AND

1. The Union of India, represented by
the General Manager, N. F. Railway, Maligaon,
PO- Guwahati-781011. Assam
2. The Divisional Railway Manager, (P), NFR, PO-
Lumding. District- Nowgong, Assam.
3. Welfare Officer , NFR, PO Badarpur,
Dist.-Karimganj. Assam.
4. Section Engineer, NFR, PO- Harangajao,
District. N.C.Hills, Assam.

..... Respondents

PARTICULARS OF APPLICATION

1. **PARTICULARS OF APPLICANT:**
 - i) Name: .. Srimati Pankajini Das,
 - ii) Husband's Name .. Late Joy Kumar Das,
 - iii) Residential Address .. Resident of Village & PO Bakrihawar-
Part- III, PS-Algapur,
District:-Hailakandi. Assam.

Pankajini Das

Filed by
MM
 Monorajjan Das
 Advocate

2. Particulars of Respondents:-

i) Name and/or designation:

- (1). The Union of India, represented by the General Manager, N. F. Railway, Maligaon, PO- Guwahati-781011.
- (2). The Divisional Railway Manager, (P), NFR, PO- Lumding. District- Nowgong, Assam.
- (3). Welfare Oficer , NFR, PO-Badarpur, Dist.-Karimganj. Assam.
- (4). Section Engineer, NFR, PO- Harangajao, District N.C. Hills, Assam.

ii) Office of the Respondents: As above.

iii) Address for service of notice: As above.

3. Particulars of the order against which the application has been made:

This application is made against the delay and inaction to grant and pay the family pension since 06/11/1977, to the above named applicant, the sole widow of a humble Gangman, Late Joy Kumar Das who entered in the Railway Department on 27.4.1966, Approved On 18.11.67 died in harness on 05/11/1977 in the Railway Hospital at Badarpur (Karimganj District). Prior to his death his service was regularized. He was allowed to draw scale of pay of Gangman and at the time of his death he had at his credit more than 10 years of regular service under the Respondents. Though the applicant submitted her claims of family pension in the year 1978, the Respondents failed to settle up her claim even today despite her regular persuasion. Hence this application before this Hon'ble Tribunal for justice.

4. **LIMITATION :**

The applicant declares that the instant application has been filed within the limitation period prescribed in Section 21(3)/21(2)(a) of the Central Administrative Act 1985

Pankajini Das,

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Filed by
Mr.
Monoranjan Das
Advocate

5. JURISDICTION :

The applicant declares that the subject matter of the case is within the jurisdiction of this Administrative Tribunal.

6. FACTS OF THE CASE :

6.1. That the applicant is the citizen of India, and as such she is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and Law framed there under.

6.2. That, the applicant ~~is~~ is a widow of the Ex. Watchman/Gangman, Late Joy Kumar Das. The said Joy Kumar Das entered in the Railway service on 29.4.1966(Annexure A-4) as a Casual Worker and as a watchman and he was conferred temporary status on 18.11.1967, CL/CPC approved vide Srl. No. 353 of D.S(P), LMG's L/No.E/1/1/LM(Con) Dt. 30.6.1970. The deceased Railway Employee paid Provident ^{fund} Subscriptions from 197-72, Depositor No.181275 (Annexure A-5) The said Joy Kr. Das was discharged on 08.5.74 for participation in Railway Strike in May,74 and re-engaged before 11.6.77 condoning the period of absence consequent to 'Strike' which can be proved from his last pay of Rs.202/- in the Scale of Rs.196-232. The deceased, before his death rendered continuous service from 27.4.1966 to 5.11.1977 more than ten years, who died in harness on the 5th day of November, 1977 and in the N.F. Railway Hospital at Badarpur. A Copy of the letter dated 03.09.98, from Section Engineer, N.F. Railway Harangajao, addressed to the Divisional Railway Manager(P), N.F.Railway, Lumding, Respondent No 2 with a copy endorsement to the applicant, is enclosed. (Annexure A-1)

6.3. That, the applicant after the death of her husband submitted claims for Death gratuity and Family pension to the Respondents through the Permanent Way Inspector, Damcherra, N.F.Railway, together with an Afidavit dated 23.8.78 but after several personal visit to the office of the Respondents No.2. The Respondent No. 2 vide his letter Dated 25/4/97 (Annexure A-6) directed the Respondent No.3 for submission of immediate report but that too also have not been done yet. On the other hand, said claim forms for family pension were returned to applicant by hand by the office of the D.R.M Lumding in the year 2002 (Exact date cannot be recollected) without disclosing any written fact behind the return of those forms (Annexure A-2) and verbally told the applicant that the pension could not be given and the matter of compassionate appointment of Sri Sibu Das son of the deceased would be looking into. The applicant, thereafter on 11.3.2002 sent a

Pankajini Das

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Filed by
and
Monoratjan Das
Advocate

representation for her Family Pension and on 31.8.2002 sent an appeal for compassionate appointment of her sole son Sibu Das to the General Manager, Respondent No. 1, but without any fruitful result from the Respondents (Annexure A-7). The applicant sent a Pleader's Notice to the Respondents on 06.01.2005 on the subject but no reply has yet been received from the Respondents and the poor applicant has been roaming from door to door of the Respondents with a beggar's bowl since the death of her husband.

6.4 That, after the death of the said Joy Kumar Das, Your humble applicant approached for grant of Family pension and for compassionate appointment but the concerned authority, i.e. the Divisional Regional Manager, (P), NFR, Lumding, lackadaisically delaying for this and that grounds and even does not reply in writing to the Applicant and the Respondent No. 2 wanted a complete report from the Respondent No 4 under whom the deceased was working and the applicant after a long persuasion got a report from the controlling Officer, of the deceased Late Joy Kumar Das Ex Gang-man, viz from Section Engineer, NFR, Harangajao, Respondent No 4 above, regarding the particulars of service of the deceased. Accordingly, the Section Engineer, Harangajao NFR, sent a letter dated 03/9/1998, a copy of the said letter was endorsed to your applicant (Copy enclosed as Annexure A-1), which makes it clear that the said deceased was in the regular service as Gang-man, as claimed by the applicant, in the Department of N.F.Railway, rendered more than ten years of regular service under the Respondents and the deceased was approved CL/CPC and is eligible for Pension/Family Pension. But even then, the Respondents, particularly Respondents No.2 above, have failed to take steps and did not pay Family Pension to Your humble Applicant. In such situations, the Applicant paid several visits to the office of the Respondents but the Respondents over looked her genuine and legitimate claims of family pension and also did not feel it necessary to give a written reply to Your Humble Applicant except verbal assurance of examining her case of family pension but the respondents did nothing. Hence, Your humble applicant has no way out but to take the recourse of this Tribunal to mitigate her long pending, genuine, bona fide and legal prayer demanding Family Pension with effect from 06/11/1977 against the Respondents who own, manage, control and administer the affairs of the Department of N. F. Railways.

7. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

7.1 That, it is a settled principle of law that the denial of benefit and privileges vested upon a Government servant and after him to his heir (s) by the Constitution of India and then by the Authority, shall in no

Bankajini Das.

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Filed by
My
Advocate
Monoraj Das

case be curtailed or withdrawn, unless otherwise than by and through a due process of law. In the instant case, the Department of Railways acted arbitrarily and grossly failed to act with due diligence in discharging the duties towards the poor widow of a deceased employee who was working under them as an approved regular employee and rendered more than ten years of continuance service before his death in harness on 5.11.1977 at Badarpur Railway Hospital after a brief treatment of two months.

7.2 That, the delay causing evasiveness for granting of family pension to Your applicant is a desperate violation of fundamental rights as envisages in Articles 14 and 16 of the Constitution of India.

7.3. That, the Applicant is entitled to get Family Pension from the Department of Railway with effect from 06/11/1977, vis a vis service rendered by her deceased husband, as per Paras 2311 (3)(b)/2315/2318 of Indian Railways Establishment Manual and the principle "Casual Worker in Railways acquiring the status of 'substitutes' and after continuing as such for over a year, dying-consequences-on completing 6 months' continuous service, held, he became Temporary Railway servant and when he died after one year's continuous service his widow and children became entitled to family pension" laid down by the Supreme Court of India in Civil Appeal No. 10492 of 1995, Prabhavati Devi Vs. Union of India, decided on November 16, 1995, reported in (1996) 32 A.T.Cs. 515. And in this instant case the deceased while in service fulfilled the criteria for service and pension, fixed by the Department of Railways vide provisions of rules of Indian Railways Establishment Manual, mentioned herein before.

7.4. That, it is an incumbent on the employer/Respondents to conduct the pension case of the deceased soon after the death of the employee but in the instant case the Applicant has been roaming with a beggars bowl for her claims of family pension but failed to yield any positive result and the delay in finalization family pension is due to the procrastinated action on the part of the Respondents only and the Respondents are legally bound to release family pension in favour of the Applicant with effect from 06.11.1997 with accrued interest thereon at the rate of 12% per annum. In this connection Thresiakutty Lonappan and Another Vs. U.O.I., O.As. Nos. 527 and 590 of the C.A.T. Ernakulam Bench, reported in (1996) 34 A.T.C. 584 is referred to and supported by the decision in the Writ Petition of Smt. Maya Chakraborty Vs. State of Assam, in the Hon'ble Hight Court, Guwahati, (W.P (C) 2926/2003), decided on 22/2/2005.

Pankajini Das,
21

Filed by
My
Monoranjan Das
Advocate

7.5 That, it is true that the applicant came to know from the Respondents No. 2 verbally in the year 2002 that the family pension would not be granted to her and she sent Pleader's Notice on 6.01.05 and now approaching this Tribunal and keeping in view the fact that she is a poor widow of a poor deceased, Group-D employee, having no other source of income, living on the mercy of her relatives, representing to the Respondents repeatedly, it is proper to accept her application on the ground of substantial justice. The principle has been set by the Hon'ble Supreme Court of India in S.S. Rathore Vs State of M.P (1989) 4 SCC 582, which is followed by CAT, Allahabad Bench, in NANDALAL V UOI & Others, (1993) 23 ATCs 462.

8. RELIEF SOUGHT FOR :

In view of the fact mentioned in para 6 above the applicant prays for following reliefs:-

- (a) A direction to the respondents particularly to the Respondent No.2, to grant family pension and other service benefit due to a regular deceased employee, with accrued interest at the rate of 12% per annum from 01. 01. 1979, to the applicant with effect from 06.11.77, following the death of her husband (Ex-Gangman).
- (b) A Direction for compassionate appointment to the sole son of the deceased namely Sri Sibu Das.
- (c) An order for payment of cost of this case, and/or such other relief(s) as Your Honour would deem fit and proper.

And

For the act of Your kindness Your Humble applicant as in duty bound shall ever pray.

22
Ranakajini Das.

Filed by
M
Monoranjan Das
Advocate

9. DETAILS OF REMEDIES EXHAUSTED:

- (a) The applicant declares that she repeatedly approached the Respondents No. 2 to 4 and finally through a Pleader's Notice dtd. 6.1.2005 to all the Respondents but in vain.
- (b) The applicant further declares that the matter regarding which this application has been made is not pending in any Court of law or any other authority or other Bench of the Tribunal.

10. Particulars of IPO in respect of the application:

- (a) Number- 20 G 141828
- (b) Issuing Office- Kaligarh
- (c) Date of issue- 16.12.06.
- (d) Payable at Guwahati-

11. DETAILS OF INDEX:

An index is duplicate containing the details of documents to be relied upon is given on the front page.

12. LIST OF ENCLOSURES :

Furnished in the index of the front page.

R.3

Filed by
My
 Monoranjan Das
 Advocate

VERIFICATION

I, Smt. Pankajini Das, age 52 years, W/O Late Joy Kumar Das, of village & PO- Bakrihowar Part-III, P.S Algapur, District- Hailakandi, Assam, do hereby verify that the contents from para 1 to 12 above are true to my personal knowledge and belief and I have not suppressed any material fact.

Place : Silchar.

Date ; 15/12/2006.

Filed by
 Monoranjan Das
 Advocate
 15/12/06.

Pankajini Das.
 Applicant.

Anneature-A-I

Page 10

(N.F.RAILWAY)

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

Office of the
Section Engineer,N.F.Rly
Harangajao.
No 2/1-310 Dt. 03-09-98

Sub:-Service particulars of Late Joi Kumar Das,ex.CL/CPC
under PWI/DCA (now SE(P-Way)/Harangajao.

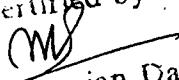
As requested by smt. Pankajini Das, widow of late
Joi Kumar Das, ex. CL/CPC (approved) of this Unit, I am furnishing
here with the Service particulars of Late Joi Kumar Das for your
kind information and necessary action please.

- 1) Name:-Late Joi Kumar Das
- 2) Desig:-Ex. CL/CPC (Approved) *VICL SLNC 353 OF DS(P)/LMG L/No
E/1111/LM(Co) Dt 30/6/70*
- 3) Date of Birth:-04-09-45
- 4) Date of Apptt:-18-11-67
- 5) Date of Discharge on Rly Strike:-08-05-74
- 6) Date of re-engagement:-Before 11-06-77
- 7) Last Pay & Scale:-Rs 202/- (196-232/-)
- 8) Service rendered :-About 10(Ten) years
- 9) Special Remark on Discharge & Re-engagement:-Joi Kumar Das
was discharged on 08-05-74 due to participation in May '74
Rly Strike and in terms of DS(P)/LMG's L/No. E/262/1 Dt 26/4/74
he was re-engaged before 11-06-77. His re-engagement is correct
as there is a statement available in this office on which it
has been mentioned only the name list of those CL/CPC who were
not re-engaged up to 11-06-77 (Zerox copy of which is enclosed
here with). But exact date of re-engagement is not available
in this office record. Most probably the same was recorded in
his Service Book & P/Case which has already been submitted to
your office after his death for FS clearance.

Zerox copies of statement No E/1-202 Dt. 11/6/77
and E/1 Dt. 6/4/78 on discharge and re-engagement issued from
this office are enclosed here with for your kind information
and necessary action please.

DA/- 2(Two) Zerox Copies of
statement.

S.E (P-Way)/Harangajao

Certified by

Monoranjan Das
Advocate

Copy forwarded to smt. Pankajini Das, widow
of Late Joi Kumar Das for her information
please.



Annexure II
Form of application (Family pension scheme
for Railway employees - 1964).

:::::

Application for a family pension for the family of Late
 Sri/Smt. Jay Kumar Das Designation Ex. Wmam
 to this office/Dept. Engg Ministry of Railway

1. Name of the applicant. Smt Pankajini Das
2. Relationship to the deceased Rly.servant/pensioner. wife
3. Date of retirement, if the deceased was a pensioner. expired on
4. Date of death of the Railway servant/pensioner. 5/11/77
5. Names & ages of surviving kindred of the deceased.

	Name	Date of birth (by Christian era)
Widow/Widower.....	<u>Pankajini Das</u>	<u>23 yrs (5-11-54)</u>

Sons	1. <u>Sibu Das</u>	<u>4 u (27-10-73)</u>
	2.	
	3.	
	4.	
	5.	
	6.	

Un-married
daughters

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Certified by
 (M)
 Monoranjan Das
 Advocate

...2...

26

6. Name of Treasury/Sub-Treasury at which payment is desired. (2)

7. Signature or left hand thumb impression (in the case of those who are not literate enough to sign their name). Pankajini Das

8. Descriptive roll of PANKAJINI DAS widow/widower/guardian of the minor children of Late Joy Kumar Das

i) Date of birth (by Christian era)

ii) Height- 5 ft 2 inches

iii) Personal marks, if any, on hand or face - 1)

iv) Left hand thumb and finger impression:- 2)

Small
Finger

Ring
finger

Middle
finger

Index
finger

Thumb



9. Full address of the applicant :- W/o Late Joy Kr. Das

Vill - Bakarikhowar Part III

P.O. - Kalinagar

Dt. - Cachar

Attested by:-

(1) J. B. DAS, M.P. (P.M.)

(2) S. K. Nandy, T.K.

Witness:-

(1) P. C. Das, S.C./D.C.A.

(2) _____

Note:- The descriptive roll (column-8) and signature or left hand thumb and finger impression accompanying application for Family pension should be in duplicate (in both the sheets) and attested by two Gazetted officer or two person, respected in the Town, village or Pargana in which applicant resides).

Filed by
Monoraj J. Das
Advocate

Smt. Pankajini Das

Das

widow of Late Joy Kumar

(Designation) Gangman (cl/cpc) of N.F.Bly.

do hereby declare that I have not remarried since the death of my husband on 5/11/77 nor have any intention of remarrying in future.

Attested.

1)

Das

Signature

Pankajini Das

W/O Late Joy Kumar Das

Date

Non remarriage declaration.

I Smt. Pankajini Das widow of Late Joy

Kumar Das (Designation) Gangman (cl/cpc) of

N.F.Bly do hereby declare that I have not remarried since the death of my husband on 5/11/77 nor have any intention of remarrying in future.

Attested.

(1)

Das

Signature

Pankajini Das

W/O Late Joy Kumar Das

Date

M
Certified by
Monoranjan Das
Advocate

29
P-13
DESCRIPTIVE ROLL OF SHRI/SMTI

Pankajini 03

Widow/Widower/Guardian of the minor children of Late Jay Kumar 03

Designation ex G/mew Sta. DCA

(I). Date of birth(by Christian era) 5-11-54

(II). Height 5ft 2 inches

(III). Personal marks, if any on hand or face -

a) two moles both sides of the left + right hand
b) one cut mark on the right eye brow.
c) }
d) } X

(IV). Left/Right hand thumb and finger impressions:-

Small
finger.

Ring
finger.

Middle
finger.

Index
finger.

Thumb



Attested by

(1). Pankajini DAVENDRA
PLA. DAVENDRA

(2). S. K. Naq. T. K

COUNTERSIGNATURE

Signature or left/right hand
thumb impression.

Note: The descriptive roll should be attached with the application for family pension (Annexure II) in duplicate (in two separate sheets) and attested by two gazetted officers or persons of respectability in the Town village of Pargana in which the applicant resides.

—00—
INCR5972

Certified by
Monoranjan L. A.
Vocant

To

Form No. SRC (4) / 967.

The F4 & CAO, N.F.Rly., Maligaon,
Gathati-11.

Dear Sir,

I request that my Provident Fund, Special Contribution to P.F. or Gratuity money may be paid to me in CASH or by Postal money Order of my cheque Book of State Bank of India, Guwahati Bank sent registered post at the following address.

I agree that the remittance made in the aforesaid manner shall be at my sole risk and shall be complete discharge of Govt. from all liability on the money being remitted by money order or in the cheque or Bank Draft being forwarded by registered post, as the case may be, I herewith enclose receipt for the amount.

Attested by:

[Signature]
P. F. & G. INSPECTOR
N.F.RLY. GUWAHATI

Pankajini Das
Yours faithfully,

Full name of the payee Smti PANKAJINI DASFather's name W/o Late Joy Kumar DasDesignation, if any Gangmen, N.F.RLYFull address V.H. - Bakaripukhuri Port III P.O. KALINAGARDh. Cachar, AssamRECEIPT.

Received from

the sum of Rs.

(Rupees 80/-)
in full and final satisfaction of my claim to the Provident Fund
amount/special contribution to P.F. Gratuity.

Attested By: -



Pankajini Das
(Signature of payee over in
Revenue Stamp)

Station No. _____
Dated: _____

Contd. Page-2.

Certified by
[Signature]

Monoranjan Das
Advocate

when payment is desired by Cheque please note that cheques are drawn on BANES and Treasury listed below with this Railway has transactions and not on any other Private Bank and name of the Bank proposed should be stated accordingly in full.

Reserve Bank of India.

Calcutta and Bomay.

Imperial Bank of India
State Bank of India

Purnea, Jalpaiguri, Dibrugarh, Shillong
and Alipurduar.

Treasury

Gauhati, Jorhat, Nowgoro and SCL
Kurseong and Alipurduar

Sub-Treasury.

N.B.: - Payment shall be made only in India.
The Bottom receipt portion of this Form is
also to be signed keeping the space for
amount in blank.

G.241

ANNEXURE XXVII

Death and Heirship certificate.

Certified that after enquiry I am satisfied that Jay KumarDas

Designation

Gangman(Name of employee) son of Unish Chandra Das Resident of Peku Pahar Part III
P.O. KALINAGAR District Cachar died on 5 Nov/77

and the names of his widow and children are given below:-

1). Sonu Pankajini Das

(name(s) of wife/wives)

2). Sonu Das Major/minor
(name of son)

3). _____ Major/Minor

4). _____ Major /Minor
(name of son)

5). _____ Major/Minor

6). _____ Major/Minor
(name of son/daughter) married/unmarried (in case of daughter)7). _____ Major/minor
(name of son/daughter) Married/unmarried (in case of daughter)8). _____ Major/minor
(name of son/daughter) married/unmarried (in case of daughter)9). _____ Major/minor
(name of son/daughter)10). _____ Major/minor
(name of son/daughter) Married/unmarried (in case of daughter)11). _____
(Name of son/daughter) Married/unmarried (in case of daughter)Dated 1972

(Signature)

Designation - Advocate

Seal -

Certified by

Monoranjan Das
Advocate

I, Srimati Pankajini Das

widow of Late Joy Kumau

Das

(Designation) Gangman (c/c/c) of N.F.R.L.Y

do hereby declare that I have not remarried since the death of my husband on 5th November, 1977 nor have any intention of remarrying in future.

Attested.

(1)

[Signature]
S. P. DAS
Advocate

Signature

W/O Late Joy Kumau Das

Date ex a/m

Pankajini Das

Non remarriage declaration.

I, Srimati Pankajini Das, widow of Late Joy Kumau Das (Designation) Gangman of N.F.R.L.Y. do hereby declare that I have not remarried since the death of my husband on 5th November, 1977 nor have any intention of remarrying in future.

Attested.

(1)

[Signature]
S. P. DAS
Advocate

Signature

W/O Late Joy Kumau Das

Date ex a/m

Pankajini Das

Certified by
[Signature]
Monoranjan Das
Advocate

Form No. 12.
(See para 1009)

Permanent address and mode of payment.

Permanent address of the railway servant after termint of service and mode of payment of gratuity/death cum retirement gratuity and pension.

I. Address: Srimati PANKAJINI DAS
W/o Late Joy Kumar Das Vill - Bokakhowa Part III
P.O. KALINAGAR Dt CACHAR ASSAM

2. Mode of payment: ~~By Cheque of State Bank of India, Hailakandi branch~~

i) (a) Gratuity ~~By Cheque of State Bank of India, Hailakandi branch~~

 (b) Death cum retirement gratuity.

ii) Name of the Treasury at which pension will be drawn. HAILAKANDI TREASURY

S.M. Pankajini Das

Signature and designation of the employee in full.

*Joy Das Joykumar Das
..... ex/mon*

Form No. 12.
(See para 1009)

Permanent address and mode of payment.

Permanent address of the railway servant after termint of service and mode of payment of gratuity/death cum retirement gratuity and pension.

I. Address: Srimati PANKAJINI DAS
W/o Late Joy Kumar Das Vill - Bokakhowa Part III

2. Mode of payment: P.O. KALINAGAR Dt CACHAR ASSAM

i) (a) Gratuity ~~By Cheque of State Bank of India, Hailakandi branch~~

 (b) Death cum retirement gratuity ~~By Cheque of State Bank of India, Hailakandi branch~~

ii) Name of the Treasury at which pension will be drawn. HAILAKANDI TREASURY

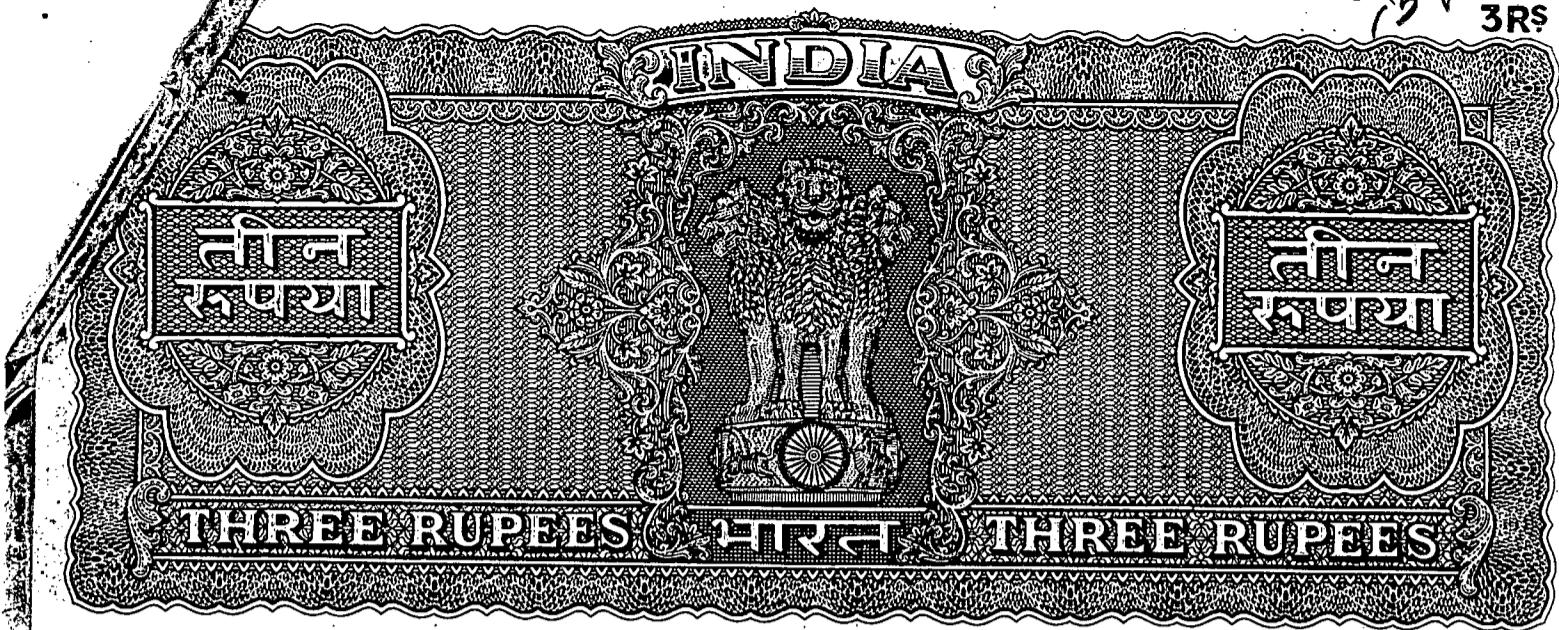
Pankajini Das

Signature and designation of the employee in full.

*Joy Das Joykumar Das
..... ex/mon*

Certified by

M
Monoranjan Das
Advocate



AFFIDAVIT

In the Court of Executive Magistrate, Hailakandi.

Shri Pankajini Das

I, Srimati Pankajini Das W/O Late Joy Kumar Das of Vill- Bakrihawar part-III P.O. Kalinagar P.S. Hailakandi Dt. Cachar religion -Hindu, aged 23 years profession dependent do hereby solemnly affirm & say.

- (1) That my husband named Sri Joy Kumar Das expired on 5-11-77 at Badarpur Railway Hospital.
- (2) That Late Joy Kumar Das died leaving the following heirs and that they are alive to day. Heirs are (1) Pankajini Das (2) Sibu Das, S/O Late Joy Kumar Das.
- (3) That there is no other heir or near relative of late Joy Kumar Das.
- (4) That above named person (2) Sibu Das is minor child of the deceased is living under my care and I am his mother.
- (5) That I have got no interest adverse to that of the aforesaid minor.
- (6) That I on my behalf as well as on behalf of the aforesaid minor (s) son () and daughter () am entitled to the pensionary benefits due to my husband (relationship late Joy Kumar Das & designation of the deceased) who was ex-copang man.

Certified by
M
Monoranjan Das
Advocate

Das
2nd
Executive Magistrate
Hailakandi

contd.... 2/-



page No.- 2.



(7) That there is not other surviving member of the family of Joy kumar Das. Ex G/man/ (name & designation of the deceased) ranking above me in the order proscribed in the Rly. pension Rules to receive payment of the family ponsion.

(8) That I fully understand thay any false information given or declaration made by me in this connection as above will render me liable to legal al action.

(9) That my husband has got no wife judicially separated.

I pankajini Das, (name of the declarant) wife (relationship) of late Joykumar Das (name & Desig. of the deceased) do hereby solemnly affirm that the statements made above in this affidavit are ture to the best of my knowledge and belief and information . Nothing has been cancealed. May God help me and in taken whereof I this the .23/8/1978. (date) set my hands hereunto.

Signature,
Identified by

Dasan.
Advocate, 23/8/78
Hailakandi,

Signature of the deponent,

Shri Pankajini Das
Sworn before me.

Magistrate,
Hailakandi

Certified by
Monoranjan Das
Advocate

Exco. Hailakandi

MONORANJAN DAS
ADVOCATE, KALIGORAH

36

NOTICE UNDER 80 CPC

(Registered with A.D.)

To,

Date : 06/01/05

1. The General Manager,
North Frontier Railway
Guwahati-781011.
2. Divisional Railway Manager(Personal)
North Frontier Railway
Lumding.
3. Welfare Officer,
North Frontier Railway
Badarpur.
4. Section Engineer,
North Frontier Railway
Harangajao. Notice Receiver

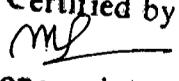
1. Smt. Pankanjini Das, age 50 years
2. Sri Sibu Das, age 32 years
wife & Son of Late Joy Kumar Das, Ex Gangman,
resident of Vill. & P.O. - Bakrihawar Part-III
P.S. - Algapur, Dist. - Hailakandi (Assam)

..... Notice Giver



Under instruction from my client above named Notice Giver, I am to serve this Notice upon you, the above named Notice Receiver for interalia, following subject for you

Contd... P/2

Certified by

 Monoranjan Das
Advocate

: 2 :

37
taking action within a period of two months from the date of receive of this Notice.

1. That, Late Joy Kumar Das, Ex-gangman, entered in the service as Watchman on 29-4-1966 in the department of Railway, managed and own by you the Notice Receiver above named 1 to 4 and posted at Dhamchara Section (Watchman of Bridge No.463) followed by C.P.C. on 18-11-67. He was approved as such vide Divisional Superintendent (P) Lumpding Letter No.E/1/1/LM(CON) Dated 30-6-1970 at serial No.353. The said Joy Kumar Das would have continued but for alleged family reasons and others only on 1-5-1977 he was taking part in strike May, 1974.
2. That, the said Sri Joy Kumar Das re-engaged in the post of Gangman in terms of Divisional Superintendent (P) Lumpding Letter No.E/261/10 dated 26-4-1977. The said Joy Kumar Das, resumed duty on 4-5-1977 on receipt of aforesaid Letter dated 26-4-1977.
3. That the said Joy Kumar Das fell ill while on duty as Gangman at Harangajao under PWI/DCA (Now SE, P. Way Harangajao) and was admitted at Railway Hospital Harangajao in the month of September 77 where from the patient was referred to Railway Hospital Badarpur. The said Joy Kumar Das expired on 5-11-1977 at Railway Hospital Badarpur after a brief treatment of two months.



Contd...P/3

Certified by
(M)

Monoranjan Das
Advocate

: 3 :

4. That the said Joy Kumar Das (CL/CPC under PWI/DCA Now SE, (PW) Harangajao) rendered more than ten years of service under the department of Railway from 29.4.66 to 5.11.77, and died in harness at the age of 32 years living behind the above named Notice Giver as his only legal heirs and none else.

5. That after the death of said Joy Kumar Das, Smt. Pankanjini Das widow of the deceased and mother of Sibu Das (who was a minor boy of 4 years) submitted her claim before you the Notice Receiver No.1 to 4 above for F.S. clearance Family Pension and other consequential relief pertaining to the service of her deceased husband including her compassionate appointment. But you the notice receiver failed to do your part and even today her genuine and bonafide claim against you remained unsettled.



6. That, it is an irrefutable fact that my client Pankanjini Das has inter alia bonafide claim for her family pension with effect from 6-11-1977 consequent to the death of her husband Joy Kumar Das on 5-11-1977 and also for payment of F.S. Money and compassionate appointment for Sri Sibu Das the sole son of the deceased.

7. That, last but not the least, it is mentioned here the Section Engineer N.F.R. Harangajao vide his letter No. E/1-310/ dated 03-9-98 addressed to you, the Notice Receiver No.2 above and communicated all relevant information of service particulars of Late Joy Kumar Das, Ex-gangman

Contd...P/A

Certified by

(My)

Monoranjan Das
Advocate

: 4 :

(CL/CPC approved). But inspite of time to time, and passive persuasion by my clients you the Notice receivers' lackadaisically delaying the claims mentioned hereintofore and thereby dragged down my clients to the state of destitution and starvation. Even a mere reply from your ends is yet to be received by my client. Therefore, in the premises, and under the active instructions from my clients I do hereby give you this notice for the following relief :-

1. Grant of family pension to Smt. Pankajini Das the widow of the deceased from the date of death of Joy Kumar Das.
2. Clearance of F.S. Money to the deceased family.
3. Compassionate appointment of Sri Sibu Das, sole son of the deceased and
4. Any other relief as your honour would deem fit and proper and

Within a period of two months from the date of receipt of this notice lest I have no other alternative but to ^{take} recourse of law for loss, injury and mental torture and in that event you, the above named notice receivers will hold yourself alone liable and responsible for the cost and compensation including cost of this notice.

Yours faithfully,

MD
06/01/08

MONORANJAN DAS
ADVOCATE, KATIGORAH

Certified by
MD
Monoranjan Das
Advocate

वीमा नहीं NOT INSURED

ये जाये डाक टिकटों का मूल्य रु 30/-
ount of Stamps affixed Rs. 30/- P.

रजिस्ट्रेट्ड*
eived a Registered*
गाले का नाम *The Sealion*
tressed to *N. F. R. by*

क्रमांक
No.

2683

तारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

वीमा नहीं NOT INSURED

ये जाये डाक टिकटों का मूल्य रु 30/-
ount of Stamps affixed Rs. 30/- P.

जिस्ट्रेट्ड*
eived a Registered*
गाले का नाम *N. F. R. by*
tressed to *Amrit Singh*

क्रमांक
No.

2684

तारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

वीमा नहीं NOT INSURED

ये जाये डाक टिकटों का मूल्य रु 30/-
ount of Stamps affixed Rs. 30/- P.

जिस्ट्रेट्ड*
eived a Registered*
गाले का नाम *N. F. R. by*
tressed to *ghey - 11*

क्रमांक
No.

2685

तारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

वीमा नहीं NOT INSURED

ये जाये डाक टिकटों का मूल्य रु 30/-
ount of Stamps affixed Rs. 30/- P.

जिस्ट्रेट्ड*
eived a Registered*
गाले का नाम *N. F. R. by*
tressed to *Balayya*

क्रमांक
No.

2686

तारीख मोहर

Date Stamp

पानेवाले अधिकारी के हस्ताक्षर

Signature of Receiving Officer

Certified by
MoI
Advocate Das

12

(1) Name : Gokuldas
(2) Father's Name : Omash Das
(3) Designation : Watchman
(4) Date of APPD : 27/4/66 CPC 18/11/67
(5) Date of Birth : 4/9/45
(6) Section : Damchora P.W.G. office
(7) Rate of Pay : 76/-
(8) Selection No : 123 prove

Date
28/6/95

J
Ms.

Certified by
M.D.
Monoranjan
Advocate

RECTOR
ALIABAD

P-27

By Post.

under certificate
of posting

A4
Northeast Frontier Railway.

Dt. 26.4.77

No.

EF/261/1

To:
Shri

Joy Kumar Das

Vill:

Damchara

P.O.

Damchara

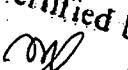
Dist. Cachar

Sub:- Re-engagement.

Please report immediately to F.W.I./F.O.W. DCA

for re-engagement.

for D.S. (P)/Lumding. U.M.C.

certified by

Monoranjan Das
Advocate

A 4

P: 28

N.F. Railway.

DS(P)'s office.
Lumding, It/-

-5-77

NO. E/261/2-LM(E).

To: Joy Kumar Das

Thro. TOW/PWI DCA

Sub:- Resumption to duty.

You are taken back to duty on regular scale of pay.

Please report to PWI/TOW DCA immediately.

U. M.
for Divisional Supdt.(P),
N.F. Railway, Lumding.

Certified by
MD
Monoranjan Das
Advocate

Northeast Frontier Railway

Form-A.1323

Department 28/12/1971

LMG

Bill Unit No. X9/315

Ledger Folio No. 61133

Statement of Voluntary/Non-Contributory State Railway Provident Institution Account

Deposit account of Shri... Joy Kr. Das Designation... M.T. No.

Depositor No. 181275 with the State Railway Provident Fund for and

upto the end of the year 31st March, 1972

N. B. :- Special attention is invited to Notes 1 & 2, of this form.

1	Subscription	V. P. F.	Details of	Remarks
	2 Rs.	3 Rs.	4 Rs.	
Balance on 1st April, 1971				
Add - Subscription during 1971-72	60			
Refund of Advance				
Interest for 1971-72 @..... 5.0% per annum	1			
Total ...	61			
Less - Withdrawals as per details in column 4				
Balance on 31st March, 1972	61			

NOTE - [1] The attention of subscribers is drawn to the importance of revising their declaration in case any event has occurred which necessitates revision. If a subscriber has not so far signed the declaration form he should now sign one.

[2] Subscribers should satisfy themselves as to the correctness of the statement and errors should be brought to the notice of the Accounts Officer within six months from the date of its receipt. You are urged to preserve this statement for production if required.

19

N. F. Rly. Press-9/8/71/L/25-Sept. '71-86,000 Forms

For F. A. & Chief Accounts Officer
Workshop Divisional Accounts Officer

Certified by
M
Monoranjan Das
Advocate

A-5

8/467

Northeast Frontier Railway

Form-A.1323

Department 8202/11

Ledger Folio No. 6/133

Bill Unit No. 84/313

Statement of Voluntary/Non-Contributory State Railway Provident Institution Account
Joy Dc. BasDeposit account of Shri Designation 6/20 T. No.
Depositor No. 181245 with the State Railway Provident Fund for and
upto the end of the year 31st March, 1972

N. B. - Special attention is invited to Notes 1 & 2 of this form.

1	Subscription 2 Rs.	V. P. F. 3 Rs.	Details of withdrawals 4 Rs.	Remarks 5
Balance on 1st April, 1972	61			
Add—Subscription during 1972-73	134			
Refund of Advance	—			
Interest for 1972-73 @.....6% per annum	8			
Total	203			
Less—Withdrawals as per details in column 4	—			
Balance on 31st March, 1973	203			

NOTE—(1) The attention of subscribers is drawn to the importance of revising their declaration in case any event has occurred which necessitates revision. If a subscriber has not so far signed the declaration form he should now sign one.

(2) Subscribers should satisfy themselves as to the correctness of the statement and errors should be brought to the notice of the Accounts Officer within six months from the date of its receipt.

You are urged to preserve this statement for production, if required.

Dated 11.11.1973

By: Press-9/7210/L/25-Nov.'72-74,000 Forms

For E. A. & Chief Accounts Officer
Workshop/Divisional Accounts OfficerCertified by
Monoranjan Bas
Advocate

A 5

X

N. F. MAITRA

Bill Unit No. 20/31

Department

D. B. 111

Ledger Folio No. 67133

Statement of Non-contributory State Railway Provident Institution Account.

Deposit account of Shri Joykr Das Dign. M. M.
 Depositor No. 181275 with the State Railway Provident Fund for and
 upto the end of the year 31st March, 1975.

	Subscription.	V.P.F.	Remarks.
	2	3	4
Balance on 1st April/1974	339		
Add- subscription during 1974-75	124		
Refund of advance			
Interest for 1974-75 @ 6.50, 7.50 % per annum.	28		
TOTAL:	491		
Less- Withdrawals as per details in column 4.	1		
Balance on 31st March 1975.	491		

1/4/2, 8, DIVISIONAL ACCOUNT OF ICER: LMS.

Certified by


 Monoranjan Das,
 Advocate

N. F. RAILWAY.

No. E/227/ENO/LM/Comr. (W).

Office of the
Divisional Rly. Manager (P)
Lumding, dtd 25/11/97.124
ToShri Dulal Chandra Dey, CPV/BPB.

C/O - AM/BPB.

Sub:- Application received on 25/4/97 which is submitted by the Widow/Ex-employee/son/daughter for appointment of Shri Smt. Sibu Dey,W.O, S/O, of Shri/Late: Joy Kumar Dey, PWT/HJO.
Ex Watchman under PWT/HJO for appointment on commissariate grounds. The employee died/medically incapacitated on 05/11/97.

An application submitted for consideration of the above named for appointment in the Railway in Class-III/IV post on commissariate grounds which is enclosed.

In order to examine the case please resubmit the application along with your enquiry report in the prescribed proforma (enclosed) in duplicate immediately along with the following:-

- 1) A certified copy of death/medically incapacitated certificate.
- 2) A certified copy of age proof school leaving certificate of the candidate or Affidavit (in case of illiterate).
- 3) A pass port size photograph of candidate duly attested by Gazetted officer.
- 4) Application to be forwarded by subordinate Incharge of the ex-employee.

Please treat this as most urgent. Reply to GM/Railway Board is held up.

DA:- As above.

By Post

for Divisional Rly. Manager (P),
N. F. Railway : Lumding.

Copy to :- Sri/Smt.

Pankajini Dey,S/O, W/O, D/O Sri/Smt/Late Sibu Dey,Ex Watchman, under PWT/HJO.C/O P. & Vill - Wunting, VillDist - N.C. Hills (Assam)

for information. This has in ref. to his/her application referred dated ch. De

He/She is also requested to contact with Shri

CPV/BPB - C/O - AM/BPB the Chief Senior Labour Welfare Inspector immediately for giving necessary family particulars and documents etc.

Certified by
Monoranjan L. D.
Advocatefor Divisional Rly. Manager (P),
N. F. Railway : Lumding.

To

The General Manager,
N. F. Railway,
Maligaon.

(Through Proper Channel)

Subject :- Appointment on Compassionate Ground.

Reference:- DRM(P)/LMG's letter NO. E/227/END/LM/Comp(W)
dt. 20.4.1997.

Sir,

With due respect I would like to state that on 11.3.02 I had submitted an appeal to you through registered post for the appointment of my son on Compassionate ground. But as ill luck would have been no action has yet been taken from your end. However, I would like to re-iterate below the contents of my appeal for favour of your kind consideration and necessary action.

That Sir, my husband Late Joy Kumar Das, ex - watchman under PWI/HJO died while on service on 5.11.1977. Death Certificate issued by ADMO/N.F.Rly/BPB is enclosed herewith for your ready reference in Annexure-I.

That Sir, my husband was an approved CL/CPC in Approved NO. 353 of 1970 under DRM(P)/LMG. His date of appointment was 18.11.1967. Incidentally he was discharged in connection with May Strike of 1974 and subsequently taken back to duty on regular scale of pay vide Divisional Supdt. (P)/LMG's letter No. E/261/2-LM(E) dt. 26.4.77 and -5-77 respectively. Copy of the engagement letter attached herewith in Annexure-2 & 3.

That Sir, I preferred an appeal to DRM(P)/LMG for the appointment of my only son in Group -D category as and when my son attained the age of 18 years. Accordingly, in response of my appeal DRM(P)/LMG vide his letter under reference copy to me, asked to re-submit the application in prescribed form attached therewith. Accordingly, the form was filled up and being completed in all respect submitted to DRM(P)/LMG through Proper Channel.

Contd.....2.

Certified by
My
Monoranjan Das
Advocate

- 2 -

That Sir, finding no action on my appeal I further appealed to DRM(P)/LMG on 2.6.2000 for early finalisation of my appeal. But sorry to state that no action whatsoever is taken as yet.

That Sir, finding no other alternative I approached to your goodself for early disposal of my prayer.

That Sir, since the death of my husband I have to lead my livelyhood with great hardship as there was none to look after me with an hope that the days of my misery will ever the moment my son will get due appointment on compassionate ground.

Under the circumstances, I pray to you to kindly consider my case on humanatarian ground and thus appoint my son in Group-'D' category on Compassionate ground. For which act of your kindness I shall remain evergrateful to you. The details particulars of my for appointment on Compassionate ground attached herewith in Annexure-4.

With regards,

Dated, 31.8.2002

Yours faithfully,

Pankajini Das.

Address :-

Shri Panka Jini Das,
C/O. Raj Kumar Das,
P.O. Langting,
(Sashanghat)
Dist. N.C. Hills, Assam.
PIN NO- 788832.

(Pankajini Das)
W/O. Late Joy Kumar Das,
Ex. Watchman, Under PWI/HJO,
the then PWI/DCA.

certified by
My
Monoranjan Das
Advocate

A.P.

NOT INSURED

टिकटों का मूल्य ६०
amps affixed Rs. 3/-क्रमांक
No. 151प्राप्ति किया
Received

Registered

ग्राम पंचायत

N.F. Rly. mali goan

प्रतिवारे आवाहन के दस्तावेज़

Signature of Receiving Office

वाम पंद्रह दस्तावेज़/पत्र/पोस्ट कार्ड/पाकेट/पार्सेल प्राप्ति हुआ

★ रेजिस्ट्रेड/वामपत्र/पोस्ट कार्ड/पाकेट/पार्सेल पाइलाम

★ Received a Registered Insured

पाने वाले का नाम

आपाकर्ता नाम छिक्का

Addressee to (Name)

★ वाने का मूल्य रुपयों में

★ वीवाकृत अर्थेर परिमान

★ Insured for Rupees

वितरण की तारीख

Date of delivery

★ अनदेश्यक की वाले दिया जाये/अप्रयोजनीय अर्थ केटे मिन/Strike out the matter not required.

★ केवल वीवा वस्तुओं के लिए/जैव वीवा सेवते व्यवेजा/For insured articles only.

मारीक भोवर
Stamp31-8-02
CENT 10/-

LEDGEMENT

इनामक

नं-

No.

The General Manager
N.F. Railway. Maligoan

Pin. 781011

Certified by
Monoranjan Das
Advocate

Mr. K. Raiway was admitted,
Medicine department
Medical certificate of the cause of death
No - 9/77

Counterfoil for the use of the relative
of the deceased, who should in all cases file
it up.

Name of deceased - Joy Kr. Das
Age:- 32 years
Last seen - 5. 11. 77
Died on - 5. 11. 77
Ht - 9 - 20 lbs

Cause of death:- Myocardial
Disease - Due to Cerebral
Stroke

① Acute Cardio Myopathy

~~Death
seen~~

Signed:-

Date:-

09/10/77
Ass't. Distl. Medical Officer, M.D.
N.T. & H. Hospital.
Government of West Bengal
State Capital: Kolkata
Date: 09/10/77

Certified by


Monil Das
Advocate

Central Administrative Tribunal
1
- 6 JUL 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

DIST. - HAILAKANDI

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI

O.A. No. 309/2006

Shrimati pankajini Das.....Applicant
-Vs-

Union of India & others..... Respondents.

WRITTEN STATEMENTS ON BEHALF OF THE
RESPONDENTS.

The Written statements of the Respondents are as
follows :-

1. That a copy of the Original Application No. 309/2006(herein after referred to as the " application" has been served upon the respondents . The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents , the rest of the statements made in the application may be treated as denied.
3. That the statements made in paragraph 6.1 to the application the answering respondent has nothing to comment.
4. That in regard to the statements made in paragraph 6.2 to the application the answering respondent begs to state that it is a fact that the husband of the applicant (Lt. Joy Kr. Das) was temporarily appointed as Casual Labour/ Central Pay Commission (in short CL/CPC) and he entered in service on 18.11.67 as Gangman /watchman. He was discharged on 08.05.74 for participation in Railway Strike in May,1974. Late Joy Kr. Das, on his discharge, was paid an amount of 479/- as final settlement due to him vide office order No. 18LP dated 2.11.76 which has been reflected as per communication contained in the letter issued by the DFM/LMG to the DRM(P)/LMG vide office Memo No. LMG/PF/Policy/24/Pt. II dated 05.04.2007. He was re-engaged before 11.6.77 not in regular post . The exact date of his joining is not available due to non-availability of staff ledgers as

Filed by
Jinal Kumar Bora
for Mr. B. Devi PPA
S. P. Railway, India
Divisional Personel Office
S. P. Railway, India

well as other relevant documents after strike period. Moreover, the applicant could not produce any documentary evidence as to on which date her husband resumed duty. From the above facts and circumstances the answering respondent deny the fact that the husband of the applicant rendered service for more than 10 years and the same is not born out of record. The answering respondent denied the fact that "the applicant was re-engaged before 11.6.77 condoning the period of absence consequent to strike which can be proved from his last pay of Rs. 202/- in the scale of pay of Rs 196/- 232/-."

A copy of the letter issued by the DFM/LMG dated 5.4.07 is annexed herewith and marked as *Annexure-I*

5. That it may be mentioned herein that as per Annexure A-4 endorsed to the application it transpires that Late Joy Kumar Das was directed by the authority dated 26.4.77 to report immediately for re-engagement. So, it can be presumed that till 26.4.77 Joy Kumar Das did not resumed his duty. As per office record it has revealed from the office order No. 46 dated 14.7.78 the name of Joy Kumar Das, CL/CPC, was enlisted for absorption in regular post as Watchman but could not be posted/effective as he passed away on 05.11.77 before the aforesaid office Order.

A copy of the aforesaid letter dated 14.7.78 issued by the Asstt. Ex. Engineer, N.F.Rly, Haflong is enclosed herewith and marked as *Annexure-II*

5. That the averments set forth by the applicant in paragraph 6.3 to the application are not acceptable at all. The deceased husband of the applicant J.K.Das was working as CL/CPC. As per Railway Service Pension Rules, 1993 Rule 14, CL/CPC worker is not entitled to pension. Hence, the applicant, being the wife of Late J.K. Das is not entitled to any pensionary benefit of her deceased husband. For death gratuity the applicant was required to submit prescribed application, but the applicant has never submitted any application in prescribed form for payment of the same.

It is brought to the notice of the Hon'ble Court that the applicant has claimed the matter of family pension and appointment on compassionate ground after a brief period of 29 years which is extremely barred by limitation.

6. That the statements of allegation made in paragraph 6.4 to the application are not admitted and the same are categorically and specifically denied by the deponent. The applicant was never given verbal assurance at any point of time to consider her case of family pension and appointment on compassionate ground. All are false, baseless & unreasonable pleas not sustainable at all. The claim of the applicant for family pension and appointment on compassionate ground is not supported by any rules.

7. That the submissions made in the ground portion are not admitted by the answering respondent. The applicant is not entitled to any relief as claimed by her. The application is not maintainable at all and liable to be dismissed.

8. That the applicant has no *prima facie* case at all. CL/CPC worker, not a regular employee, is not entitled to pension as per extant rules.

9. That the application filed by the applicant is baseless and devoid of merit and as such not tenable in the eye of law and liable to be dismissed.

10. That most of the documents annexed in the O.A. are not authentic documents. The respondent crave the leave of the Hon'ble Tribunal to point out the same at the time of hearing of the case.

11. That in any view of the matter raised in the application and the reasons set forth thereon, there cannot be any cause of action against the respondents at all and the application is liable to be dismissed with cost.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to peruse the records and after hearing the parties be pleased to dismiss the application with cost. And pass such other orders/orders as to the Hon'ble Court may deem fit and proper considering the facts and circumstances of the case and for the ends of justice.

And for this the humble respondent as in duty bound shall ever pray.

VERIFICATION

I, Shri... Nitrode Baran Das Son of Late Rabindra
 Mohan Das resident of Lumding
 at present working as the Divisional personnel
 officer, N.F.Rly, Lumding Guwahati being
 competent and duly authorized to sign this verification do hereby
 solemnly affirm and state that the statements made in paragraph
 1 to 10 & 13 are true to my knowledge and belief, and the rests
 are my humble submission before this Hon'ble Tribunal. I have
 not suppressed any material fact.

And I sign this verification on this, 6th day of
 June, 2007 at Guwahati, Lumding.

Nitrode Baran Das -
DEPONENT

बहुल कामक अधिकारी
 डॉ. सी. रेलवे, लामडिङ
 Divisional Personnel Office
 G. D. Railway, Lumding

Office of the
Divl. Finance Manager,
N.F.Railway/Lumding.

Dated, 06-04-2007

No. LMG/PF/Policy/24/Pt. II

To
DRM (P)/LMG,
N. F. Railway.

Sub: - PF recovery of Late Joy Kr. Das, ex. Gangman (CL/CPC) under SSE
(P-way)/P/DCA.

In reference to your letter No. E/FS/5 dated 27-03-2007, this is to inform you that as per this office record an amount of Rs. 479/- was passed as Final Settlement in f/o Late Joy Kr. Das vide AB No. 18 LP dated 02/11/1976. At that time, it was informed that he was removed from Railway service from 08/05/1974. The FS memo No. was FS/905/76. Regarding reengagement, there is no information marked in our record. Hence, this office is unable to give any information about further engagement.

This is for your information.

By 5.4.07
DFM/LMG

Revised
29-3-07
DRM (P)/LMG
N. F. Railway

I. T. RAILWAY.

QUOTER ORDER NO. 46 DATED, 19. 8. 78.

The following W/men and GT/SCs under ITR/PCA are hereby posted as W/men and W/men respectively as shown against each.

Sl. No.	Name	Father's Name	W/men as	Posted as
1.	Sri Gobinda Setraban (133/65)	Sumantra Setraban	W/men as	W/men, 1/30.32 ✓
2.	" Shantanu Roy, (136)	Shantra Roy	"	" 23 ✓
3.	" Abani Karmaker (132)	Chantoo Karmaker	"	" 23 ✓
4.	" Santosh Nath. (147)	Harji Kishor Nath.	"	" 25 ✓
5.	" Hirnalal Das (148)	Nishi Karta Das.	"	" 28 ✓
6.	" Sudhir Biswas. (153)	Joarendra Biswas.	"	" 37 ✓
7.	" Ratulmoni Varifian (342/70)	Indra Varifian	GT/SC	✓/per in place of 153 is.
✓8.	" Chandras Saha. (243)	Alon Saha	"	" " " 2. -
✓9.	" Surja Saha. (5349)	Geser Saha	"	" " " 3.
✓10.	" Sankar Bhattacharjee (350)	Ganendra Bhattacharjee	"	" " " 4.
11.	" Joy Kumar Das. (353)	Umesh Das.	"	" " " 5. <u>expired</u>

(B.K.Makhlia)
Asstt. Ex-Officer, R.P.W.Ly.,
Haffor.

No. I/283/2(HOS) /360 dt. 19.8.78.
Duly to I.T.R. necessary notice of posting of W/men