

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. \_\_\_\_\_
2. Misc Petition No. \_\_\_\_\_
3. Contempt Petition No. 3/07 in O.A 28/06
4. Review Application No. \_\_\_\_\_

Applicant(S) ~~Shri~~ Erzoni Balantia VS Union of India & Ors

Advocate for the Applicant(S) Matin B.M. Ahmed  
M. Sarma

Advocate for the Respondant(S) ~~Shri~~ K.K. Birmay, Pky. advocate

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the counsel for the petitioner praying that the Respondent willfully and deliberately violation of the Judgment and order dated 1.8.06 passed by this Hon'ble Tribunal in O.A 28/06.	8.3.2007	Heard Mr.M.B.U.Ahmed, learned counsel for the Petitioner. Issue simple notice to the Contemnners/Respondents Post on 10.04.2007
Laid before the Hon'ble Court for further orders.	/bb/	

  
Vice-Chairman

P.S.  
for Section Officer

Notice & orders sent to D/Section for issuing to R-1 to 4 by regd. A/D post.

12/3/07 D/NO-298 to 301  
Dt 14/3/07.

Bz

CP. 3/07 (OA-28/06)

Notice duly served  
on R-1. 10.05.2007

CP  
3/4/07

Notice for resp. no-4  
received back as  
unserved with a  
postal remark  
"Not known".

CP  
16/4/07

Notice duly served  
on R-1, 2.

CP  
24/4/07

30.4.07

Reply filed by the  
Contemners/Respondents.  
page 1 to 5

DD

Reply has been  
filed.

/bb/

DD  
7.5.07

Reply has been  
filed.

DD

9.5.07

Sumit 72 order dt 10.5.07  
M.B.U. Ahmed  
16-5-2007  
Reply has been filed.  
29  
16.07

When the matter came up today,  
Mr.K.K.Biswas, learned Railway  
Counsel submitted that the names of the  
contemners shown in the cause title of  
the, C.P. are not correct and such  
person are not occupying any such  
office as described. Mr.M.B.U.Ahmed,  
learned counsel for the petitioner is  
directed to provide this Tribunal the  
correct names of the concerned  
contemners and also to make necessary  
correction in the petition accordingly.

Post on 5.6.2007.

✓

Vice-Chairman

/bb/

5.6.2007

Post the case on 2.7.2007. In the  
meantime Respondents shall take  
instruction with regard to dismissal of the  
SLP by the Supreme Court.

✓

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<p>Reply filed.</p> <p>24.7.07</p>	2.7.2007	<p>Mr.K.K.Biswas, learned Railway counsel submitted that there are some progress in the matter in implementing the orders of this Tribunal. He has produced a letter dated 29.06.2007, paragraph 4 of which is quoted below:-</p> <p>" Competent Authority of N.F.Railway Construction has approved to implement the judgement of the CAT/Guwahati on account of dismissal of the SLP by the Supreme Court. Accordingly, family pension is being released in favour of Smt. Eroni Bala Nath. This issue was informally discussed by Md. Salim, APO of N.F.Railway Construction with legal supervisor of Railway Board few days back."</p> <p>Copy of the said letter is kept on record. Since there is some progress in the matter let the case be posted on 25.7.2007.</p> <p style="text-align: right;">Vice-Chairman</p>
	<p>/bb/</p> <p>25.7.07</p> <p>lm</p>	<p><del>Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 14.8.07.</del></p> <p style="text-align: right;"><del>Vice-Chairman</del></p>

0.7.C.P. 3/07

25.7.07

Mr. K. K. Biswas learned counsel

for the Respondents has submitted that the order of this Tribunal dated 01.08.2006 has already been complied with. He has also produced a letter dated 29.6.07 alongwith the Supreme Court's order which was dismissed on 14.5.07. Counsel for the applicant has submitted that he would like to take instructions. Let it be done. Post the matter on 13.8.07.

26.7.07

Respondent filed  
by the Applicant  
page 1 to 5. Copy not  
served.

*RA*

Vice-Chairman

lm

30.8.2007

Mr.K.K.Biswas, learned Railway Counsel submitted that Respondents have already complied with the order of the Tribunal. Only thing Applicant is not cooperating by not furnishing the bank account etc. Mr.M.B.U.Ahmed, learned counsel for the Petitioner, on the other hand, submitted that submission of Respondents' counsel is not correct and he wanted to take instruction within two weeks. Let it be done.

Post on 17.9.2007.

*[Signature]*

Vice-Chairman

/bb/

17.9.07

Counsel for the applicant has submitted to-day that the orders of the Tribunal dated 01.08.2006 has already complied with by the Respondents. Therefore, the counsel for the applicant does not want to pursue the C.P. Accordingly, the C.P. is closed as complied with.

Vice-Chairman

*Lead to copy  
UP to 24/9/07  
RA*

*Running Copy  
9-11-07  
order of 17-9-07  
Mr. B.U. Ahmed  
20-9-07*



पूर्वोत्तर सीमा रेलवे  
(निर्माण)  
NORTHEAST FRONTIER RAILWAY  
(CONSTRUCTION)

महाप्रबंधक का कार्यालय  
मालीगॉव, गुवाहाटी-७८१०११, असम  
फैक्स नं : 0361-2570705  
Office of the General Manager(P)  
Maligaon, Guwahati-781011, ASSAM  
Fax No.: 0361-2670732

No.E/202/Con/CP-3/07/CAT/GHY

Date: 29 -06.2007

To  
Director Estt.(N)II,  
Railway Board  
New Delhi.

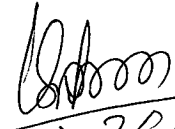
(Kind attention of Shri Mahabir Singh, Director Estt(N)II)

Sub: SLP ( C ) /10170/07 – U.O.I & Others – Vs- Smt. Eroni Bala Nath against High Court, Guwahati's order dated 01.12.2006 in WP/5927/06.

Ref: Rly.Bd.'s letter No.E(NG)II/2006/CL/24/NFR/SLP dated 29.03.2007.

1. Late Manglu Ram Nath, Ex-Gangman with TS under CPWI/Con/NJP of N.F.Railway Construction died on 18.08.1992. The widow Smt. Eroni Bala Nath has been paid all FS dues as admissible. No family pension was paid since Late Manglu Ram Nath died unapproved.
2. Smt. Eroni Bala Nath filed a case before Hon'ble CAT/Guwahati which was decided (on contest) in her favour. Being aggrieved Railway had preferred appeal before Hon'ble High Court/Guwahati against CAT's order. Hon'ble High Court was pleased to uphold the order of the CAT/Guwahati.
3. SLP was filed in the Supreme Court with the approval of Railway Board vide letter under reference. But SLP has been dismissed by Hon'ble Supreme Court on 14.05.07, copy of the certified judgement is enclosed.
4. Competent Authority of N.F. Railway Construction has approved to implement the judgement of the CAT/Guwahati on account of dismissal of the SLP by the Supreme Court. Accordingly, family pension is being released in favour of Smt. Eroni Bala Nath. This issue was informally discussed by Md.Salim, APO of N.F. Railway Construction with legal supervisor of Railway Board few days back.

This is for information of Railway Board please.

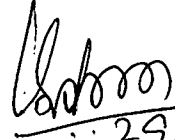
  
29/6/07  
(S.Behera)  
Dy.CPO/CON  
For General Manager/Con

Contd....P/2.

N.O.O.

Copy to :-

1. GM(P)/Legal Cell – For information please. This dispossess their letter No.E/170/LC/NS/858/07 dated 12.06.2007.
- ✓ 2. Shri K.K. Biswas, Rly. Advocate, Guwahati – Heis requested to appraise the Court that CAT's order are being complied with and thus request to drop the Contempt Petition fixed for hearing on 02.07.2007. This dispossess his letter dated 06.06.2007.

  
29/6/07  
(S. Behera)  
Dy. CPO/CON  
For General Manager/Con

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2007

CC 4415/2007

(From the judgement and order dated 01/12/2006 in WP No. 5927/2006  
of The HIGH COURT OF GUWAHATI ,ASSAM)

UNION OF INDIA &amp; ORS.

Petitioner(s)

VERSUS

ERONI BALA NATH

Respondent(s)

(With appln. for c/delay in filing SLP)

Date: 14/05/2007 This Petition was called on for hearing today.

CORAM :

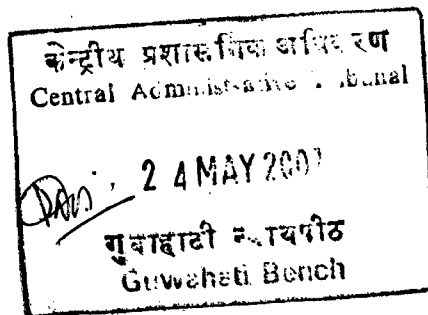
HON'BLE MR. JUSTICE C.K. THAKKER  
HON'BLE MR. JUSTICE ALTAMAS KABIRFor Petitioner(s) Mr. R. Mohan, ASG  
Mr. D.S. Mahra, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

Without expressing any opinion on the question  
of law raised, the special leave petition is  
dismissed.[ Usha Bhardwaj ]  
Court Master[ Vinod Kulvi ]  
Court Master



Filed by RTI  
Smt. Enchiranta  
through M.B. Singh Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH AT GUWAHATI.

[Application under Section 17 of the Central Administra-  
tive Tribunal Act, 1985 read with Sections 11 and 12 of  
the Contempt of Courts Act, 1971]

**CONTEMPT CASE NO.3 OF 2007.**

IN THE MATTER OF :

An application under Section 17 of  
the Central Administrative Tribunal  
Act, 1985 read with Section 12 of  
the Contempt of Court Act, 1971 for  
initiating a contempt proceeding  
against the opposite parties.

-AND-

IN THE MATTER OF :

Willful and deliberate violation of  
the judgment and order dated  
01.08.2006 passed by this Hon'ble  
Tribunal in O.A.No.28 of 2006.

-AND-

Contd....



Page-2-

IN THE MATTER OF:

Order dated 10.05.2007 passed by the  
Hon'ble Tribunal directing necessary  
correction of names of Contemners  
and also to make necessary correc-  
tion in the petition.

-And-

IN THE MATTER OF :

Srimati Eroni Bala Nath,  
wife of late Manglu Ram Nath,  
Ex.Gangman under CPW1/CON/NJP  
Resident of Village Rampur,  
PO Sorbhog, District Barpeta,  
Assam.

.....Petition

-VS-

1. Shri A.K.Sonwalka,  
General Manager, N.F.Railway,  
Maligaon, Guwahati-11.
2. Shri V.K.Madhukar,  
Chief Engineer (Con-III),  
N.F.Railway, Maligaon, Guwahati-11.
3. Shri M.Dharmalingam,  
Chief Personal Officer,  
N.F.Railway, Maligaon,  
Guwahati.

... Opposite Parties

/Contemners.

Contd....

RTI!  
SMT Eroni Bala Nath

The humble petition of the petitioner above named.

Most Respectfully Sheweth:

1. That the petitioner is a citizen of India and as such entitled to all the right and privileges guaranteed under the constitution of India and the laws framed thereunder.
2. That, the petitioner's husband late Manglu Ram Nath, during his life time, had been working as Gangman since 1982. Prior to his appointment as Gangman the petitioner's husband had been a casual labour under the Opposite Party N.F.Railway since 23.12.1976. The petitioner's husband died in harness on 18.08.1992. However, on being approached by the petitioner the Respondents released only a meagre amount of provident fund and gratuity, but no family pension was released to the bereaved family.
3. That, aggrieved by the inaction of the Respondents the applicant filed Original Application No.28/2006 before this Hon'ble Tribunal praying, inter alia, to direct the Respondents to forthwith release the

Contd. . . .

family pension as admissible under the Pension Rules and the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989 and subsequent schemes of the Government of India and all other reliefs.

4. That, the said original application was listed on various dates and upon notice the contesting parties filed their replies and produced records. This Hon'ble Tribunal upon hearing the parties at length vide judgment and order dated 01.08.2006 allowed the original application with the following directions:-

" Therefore, I am of the view that the applicant is entitled to 50% of the service rendered w.e.f. 23.12.1976 to 15.4.1979 and from 17.6.1979 to 15.10.1979 and also from 10.11.1982 to 31.12.1983 totalling a service of 3 years 10 months 1 day. 50% of the said period i.e. 1 year 11 months has to be reckoned notionally for the purpose of pensionary benefits. The deceased employee admittedly had 8 years 7 months regular service adding 50% of the period i.e. 1 year 11 months comes to more than 10 years. The minimum required period for grant for family pension is 10 years, and therefore, the applicant is entitled to get the family pension counting 50% of the service rendered before grant of temporary status as stated above. But this period is only to be

Contd....

RTI  
Smt. Exoni  
Rashmi Natar

reckoned notionally for the purpose of grant of family pension.

In the conceptus facts and circumstances of the case and the findings as above, I direct the respondents to grant the applicant admissible family pension within a period of three months from the date of receipt of this order.

The Original Application is allowed as above. There shall be no order as to costs."

A copy of the aforesaid judgment and order dated 01.08.2006 passed in O.A.No.28/2006 is annexed hereto and marked as **ANNEXURE-A.**

5. That, the petitioner immediately obtained a certified copy of the order dated 01.08.2006 passed by this Hon'ble Tribunnal in O.A.No.28/2006 and submitted the same in the office of the opposite party No.1 which has been duly received by them on 06.09.2006. Moreover, office of the learned Standing Counsel, N.F.Railway also sent the said order which was received by the concerned authority.

6. That, the petitioner states that after receipt of communication from the petitioner, the Opposite Parties approached the Hon'ble High Court by way of a writ petition being W.P.(C) No.5927/2006 challenging the

judgment and order dated 01.08.2006 passed in O.A.No. 28/2006. A Division Bench of the Hon'ble High Court after hearing the parties at length vide its judgment and order dated 01.12.2006 has been pleased to dismiss the said writ petition preferred by the Opposite Parties.

A copy of the judgment and order dated 01.12.06 passed in W.P(C) No.5927/2006 is annexed herewith and marked as **ANNEXURE-B.**

7. That the aforesaid order dated 01.08.06 being duly communicated to the contemner/opposite parties, they were duty bound to dispose of the claim of the petitioner within three months therefrom. Even otherwise, after the dismissal of the writ petition preferred by the Respondents till to-day no effective steps has been taken to implement the judgment and order of this Hon'ble Tribunal within the stipulated period.

8. That, the petitioner humbly states that such non-compliance, despite repeated reminders by the petitioner, amounts to nothing but wilful disobedience of the legal order of this Hon'ble Tribunal by the opposite parties. The aforesaid order of this Hon'ble Tribunal besides being binding on the opposite parties are also clear and categorical and should leave no room for ambiguity for the opposite party.

6/12/06  
Jat, B. Ram  
Malk  
Bale

9. That, the petitioner begs to state that such non-compliance of the order of this Hon'ble Tribunal dated 01.08.2006 passed in O.A No.28/2006 even after dismissal of W.P(C) No. 5927 /03 amounts to lowering the dignity and honour of this Hon'ble Tribunal.

10. That the petitioner respectfully states that the said non-compliance by the opposite party with the order of this Hon'ble Tribunal dated 01.08.2006 passed in O.A.No.28/2006, consistuting wilful disobedience of the Tribunal's order, amounts to committing contempt of this Hon'ble Court for which they are liable to be punished in accordance with provisions of the Contempt of Court Act, 1971 read with provisions of Central Administrative Tribunal Act, 1985 and the Rules framed thereunder.

11. That this application has been made bonafide and in the interest of justice.

It the premises aforesaid, it is respectfully prayed that your Lordship may be pleased to admit this application, issue a notice upon the opposite party/contemner to show cause as to why they should not be punished under the appropriate provisions of the Contempt of Court Act, 1971 read with Section of the Central Administrative Tribunal Act, 1985 for their wilful and deliberate disobediances/

Page-8-

violation and/or non-compliance of order dated 01.08.2006 passed in O.A.No.28/2006 and upon cause or causes that may be shown and upon hearing the parties be pleased to pass appropriate order punishing the contemners /opposite parties for contempt of this Hon'ble Tribunal and/or pass such further or other order's as your Lordship may deemfit and proper.

And for this act of kindness, the petitioner as in duty found shall even pray.

Affidavit.

Contd....

V E R I F I C A T I O N

I, Smti Eroni Bala Nath, aged about 50 years, wife of Late Manglu Ram Nath, Ex-Gangman under CPW1/CON/NJP, resident of Village Rampur, P.O. Sorbhog, Dist. Barpeta, Assam, do hereby solemnly affirm and verify as follows:-

1. That I am the petitioner in the accompanying contempt petition and as such I am well acquainted and fully conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and in paragraphs 1, 2, 3, 5, 7 to 11 are true to my knowledge and those made in paragraphs 4 and 6 being matter of record of the case are true to my information derived therefrom which I believe to be true and the rests are my humble submissions made before this Hon'ble Tribunal. And in verification whereof I sign on this 23<sup>rd</sup> day of May, 2007 at Guwahati.

Identified by

*Md. G. O. Khan*  
Advocate's ~~Clerk~~.

R T 1  
*Smt. Eroni Bala Nath*  
D e p o n e n t



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. \_\_\_\_\_
2. Miscellaneous Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_ 3/07 INO A 28/06
4. Review Application No. \_\_\_\_\_

Applicant(s) Shri Erani Bal Nath vs Union of India & Ors

Advocate for the Applicant(s) Matin B.V. Ahmed

N. Saima

Advocate for the Respondant(s) C.G.S.C.

Notes of the Registry      Date      Order of the Tribunal

10.05.2007

10.05.2007

When the matter came up today, Mr.K.K.Biswas, learned Railway Counsel submitted that the names of the contemnners shown in the cause title of the, C.P. are not correct and such person are not occupying any such office as described. Mr.M.B.U.Ahmed, learned counsel for the petitioner is directed to provide this Tribunal the correct names of the concerned contemnners and also to make necessary correction in the petition accordingly.

Post on 5.6.2007.

TRUE COPY

SA/VICE CHAIRMAN

Central Administrative Tribunal

Guwahati Bench

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH (9)

Original Application No. 28 of 2006.

Date of Order: This, the 1<sup>st</sup> day of August, 2006.

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

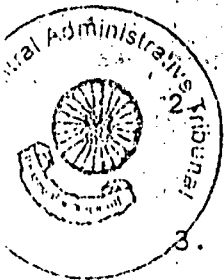
Srimati Eroni Bala Nath  
Wife of Late Manglu Ram Nath  
Ex.Gangman under CPWI/CON/NJP  
Resident of Village Rampur  
P.O: Sorbhog  
District: Barpeta, Assam.

..... Applicant.

By Advocates Mr.M.B.U.Ahmed & S.Sarma.

- Versus -

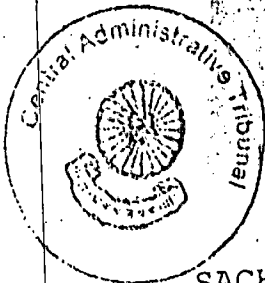
1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Railways  
New Delhi-1.
2. The General Manager  
N.F.Railway, Maligaon  
Guwahati-11.
3. The Chief Engineer (Con-III)  
N.F.Railway, Maligaon  
Guwahati.
4. The Deputy Chief Engineer (Con)  
N.F.Railway, New Jalpaiguri  
West Bengal.
5. The Asstt. Personnel Officer (Con)  
N.F.Railway, New Jalpaiguri  
West Bengal.
6. The Executive Engineer (Con-I)  
N.F.Railway, New Jalpaiguri  
West Bengal.



(10)  
7. The Chief Personnel Officer  
N.F.Railway, Maligaon  
Guwahati-11.

.....Respondents.

By K.K.Biswas, Railway Counsel.



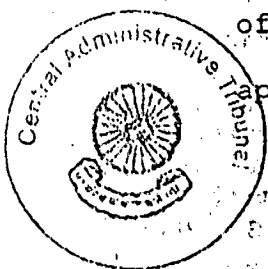
C R D E R

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

The applicant is the widow of late Manglu Ram Nath who died in harness on 18.8.1992 while working as Gangman (casual employee) at CPW1/CON, New Jalpaiguri under the N.F.Railway. The applicant pleaded in this Original Application that her husband was engaged as casual labour in the N.F.Railway on 23.12.1976 and continued till 15.4.1979 and after some break again he was engaged as casual labour w.e.f. 17.6.1979 to 15.10.1979. In the same manner the deceased rendered service as casual employee till 1982 and subsequently appointed as Gangman. The name of the applicant's late husband appeared in Sl. No.20 in the list of casual employee showing his Provident Fund No.552949 (Annexure 1 dated 8.7.1988). By the said Annexure the Executive Engineer (CON-I)/NJP issued a list of 25 Nos. of P.Way Labours intimating that on their reporting for duty of CAT on 16.8.1988 on being released by DY.CE/CON/MLDT from HCR-KDPR section they would be

(11)

posted under CPWI/CON/NJP with headquarter at CAT in their same scale of pay. Pursuant thereto, the deceased resumed duties as Gangman at New Jalpaiguri and continued upto 18.8.1992 when he breathed his last. While working as such, he suffered from Carcinoma Oesophagus. The death certificate will show that he died on 18.8.1992 (Annexue-II). The widow approached the authority for release of Provident Fund and other pensionary benefits and submitted required documents. The APO(CON), New Jalpaiguri vide letter dated 12.2.1994 endorsed all the documents to FA&CAO (CON), Maligaon for release of the PF amount credited to the deceased PF account (Annexure-III). Vide Annexure-IV another letter was addressed for payment of the same. Though a meagre amount of Provident Fund and Gratuity has been released, the respondents had not released the family pension of the deceased employee. Various representations were made requesting for release of the same (Annexure-V) but the applicant has not yet received the same and therefore, aggrieved by the inaction of the respondents, the applicant has filed this application seeking the following reliefs:-



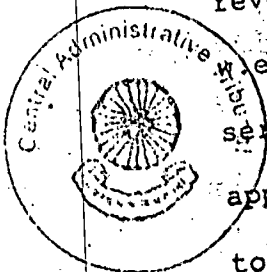
- (1) To direct the Respondent Authorities to forthwith release the family pension of late Manglu Ram Nath, Ex. Gangman, CPWI/NJP/CON as admissible under the Pension Rules and the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989 and subsequent schemes of the Government of India.
- h

(12)

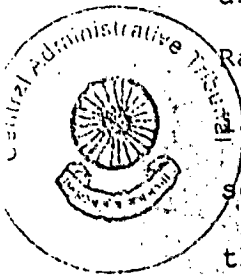
(ii) To grant any other relief or reliefs to which the applicant may be entitled to and as may be deemed fit and proper by this Hon'ble Tribunal.

(iii) Cost of this application."

2. The respondents have filed a detailed reply statement contending that as per record of Service Book the date his engagement was 10.11.1982 and the death was on 18.8.1992. There is no record available therein regarding engagement of late Manglu Ram Nath on 23.12.1976 which continued upto 15.4.1979 and again from 17.6.1979 to 15.10.1979. The records available with the respondents revealed that the deceased was granted temporary status e.f.f. 1.1.1984 after completion of 360 days of continuous service with effect from 10.11.1982. The case of the applicant is hopelessly barred by limitation and contrary to the rules and therefore, the instant application is liable to be dismissed abinitio. The deceased was transferred from the unit Dy. Chief Engineer Construction, Malda and joined under Chief Permanent Way Inspector/Con/New Jalpaiguri on 16.8.1986 and continued upto his death on 18.8.1992. The Provident Fund, Termination Gratuity and Group Insurance (GIS) were paid to the heir of the deceased employee (late M. R. Nath, ex-Gangman. Family pension is not admissible under the Rules as the deceased was an unscreened staff and moreover, he



could not completed required 10 years of regular and continuous service till his death. As per Rule 14 of Chapter-II of the Railway Pension Rule, 1993 the casual period of daily rated service of an employee shall not be counted and treated as 'qualifying service' for the pensionary benefit. Railway Organisation is having its own Rules, Regulation and working system to be guided with separately and therefore, CCS Pension Rules 1972 are not applicable in the case of Railways and the citation of the Workman Compensation Act, 1923 in the instant case is also not applicable, and hence, are not admitted and denied to the extent which are contrary to the Rules and working system of the Railways. The matter raises a doubt as the claim of the applicant as real heir of late Manglu Ram Nath, ex-Gangman and thus competency of the applicant is challenged. The continuation of minimum 10 years of service is a must as per extant Railway rules and therefore the applicant cannot be granted family pension inspite of having all sympathy and bereavement for the premature demise of her husband.

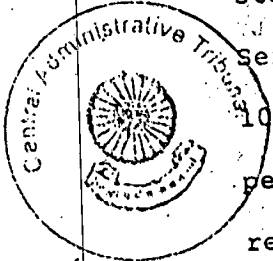


3. The applicant has filed a rejoinder contending that she is legally married wife of the deceased and entitled to get the pensionary benefits. There is some inadvertence in putting her name as "Inrani" instead of "Smti Ironi Bala Nath". She has sworn in an affidavit on 11.4.2006 before the Judicial Magistrate, Kamrup.

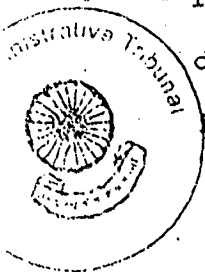
explaining the fact, which is annexed at Annexure-A. Admittedly, having rendered not less than 8 years 7 months of continuous service, and reckoning 50% of premium service even assuming as per Railway rules the applicant is entitled to get the family pension.

4. Heard Mr. M. B. U. Ahmed, learned counsel for the applicant and also Mr. K. K. Biswas, learned Railway counsel for the respondents. Counsel for the parties have taken my attention to various pleadings, materials and evidence placed on record. Counsel for the applicant argued that admittedly the deceased was granted temporary status as Gangman, in which case he must be having a Service Book which will reveal that he had put more than 10 years of service entitling his legal heir to get the pensionary benefit. Mr. Biswas, counsel for the respondents, on the other hand, submitted that the deceased employee had put less than 10 years of service and therefore his legal heir is not entitled to get any family pension as Railway rules does not permit for the same

5. I have given my due consideration to the pleadings and arguments advanced by counsel for both the parties. The claim for pensionary benefits being a continuing cause of action, the question of limitation does not arise (M. R. Gupta's case). Then short question



for consideration is whether the deceased husband of the applicant has got qualifying service so as to enable the applicant to get the family pension. The specific case of the applicant is that the deceased employee was engaged (as casual labourer on 23.12.1976 and continued till 15.4.1979 and after some break from 17.7.1979 to 15.10.1979 and rendered casual employment service till 1982 and subsequently appointed as Gangman. The applicant has produced photocopy of the Casual Labour Card (Annexure-1 Series) to show that he was engaged as casual labour as averred in the O.A. Annexure-I Series, Page 18 shows that he was engaged during the period 1976-1977 and Pages-16 & 17 show that N.F.Railway has issued the deceased Casual Labour Card to show that he was engaged as a casual labourer prior to 1981. Though the same was issued to the deceased details at to the period in which he was engaged is not clear.



6. The respondents have produced the Service Book of the deceased employee and in the application for Death cum Retirement Gratuity it is stated that date of his beginning in service is from 10.11.1982 and the date of ending service is 18.8.1992 (Form No.8) and the temporary status was granted to him w.e.f. 1.1.1984 and the amount of Gratuity were disbursed on the basis of the said period of service. There is no entry for previous service, but it is evident that he was granted temporary status w.e.f.

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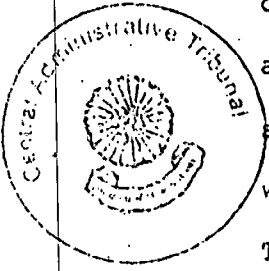


(16)

1.1.1984 in terms of the Railway Board letter dated 11.9.1986 alongwith the casual employees who had completed 360 days of continuous service after 10.11.1982.

Therefore, the deceased was absorbed as per the Scheme and the letter issued by the Railway Board mentioned above.

The previous service of the employee, if any, should be counted for terminal benefits. Specific case of the respondents is that there is no document to prove that the deceased was engaged from 23.12.1976 till upto 15.4.1979 and from 17.6.1979 to 15.10.1979 and the deceased could not complete 10 years of service till his death and as per Railway Pension Rule 1993, Rule 14 of Chapter-II, the casual period of daily rated employee shall not be treated as 'qualifying service' for the pensionary benefit. The specific case of the applicant is that the deceased had worked for few years prior to grant of temporary status. To substantiate her contention, she has produced Casual Labour Card (Annexure-1 Series) which will through light that the deceased had worked prior to 1981. Obviously the benefit of the Scheme was granted to the applicant's late husband only on the ground that he was engaged prior to 1981. As per the decision of the Supreme Court in Indrapal Yadav's case the scheme was promulgated for absorption of such casual labourers. When the Service Book of the deceased has been opened, the respondents should have collected all the materials of his previous service and



made entry therein which was not done in the present case.

Annexure-1 Series Casual Labour Cards also through light that the late Manglu Ram Nath was engaged for certain time and in the absence of any other contra-evidence, it has to be taken that he was in engagement as casual labourer from 23.12.1976 to 15.4.1979 and from 17.6.1979 to 15.10.1979. The averment in the O.A. in this regard and the documents produced has no reason to be doubted.

7. My attention was taken to the Master Circular dated 12.8.1993 issued by the General Manager, N.E.F. Railway consolidating all the letters, rules and instructions on the casual labour subject in a single body as a Master Circular copy of which is produced and placed on record in which various benefits available to such casual labourers are listed under the heading 'Entitlements of Privileges'. It is stated therein "casual labourers are not entitled to any privileges other than those statutorily admissible under the Labour Laws such as Minimum Wages Act, WC Act, I.D. etc. or those specifically sanctioned by the Board from time to time". As to the entitlement of the casual labour who have attained temporary status, in para 11.2(c) it is stated as under:-

"to count half of the service rendered (i) in the case of open line casual labour after 1.1.61 (after attaining temporary status) and (ii) in the case of Project casual labour (after attaining temporary status) after 1.1.81, towards qualifying service for



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(18)

pensionary benefits on their eventual absorption in a regular post".

Admittedly, the deceased was absorbed in the regular post at the time of his death and even according to the respondents he was in service from 10.11.1982 till his death i.e. upto 18.8.1992. The case of the respondents is that was granted temporary status w.e.f. 1.1.1984 after completion of 360 days of continuous service from 10.11.1982 and therefore that period cannot be treated for pensionary benefits. Since the deceased could not complete required 10 years of continuous service for grant of family pension, such benefits cannot be given to the applicant contrary to the rules mentioned in the Master Circular above. The spirit of the said rule is that once an employee is regularised the service rendered from 10.11.1982 to 1.1.1984 i.e. 360 days of service and prior casual labourers service rendered if any should be considered for pensionary benefits. Of course, 50% of the aforesaid period only can be counted for the same. If 50% of the service rendered w.e.f. 23.12.1979 to 15.4.1979 and 17.6.1979 to 15.10.1979 is reckoned, this Tribunal is of the view the deceased will have 'qualifying service' of 10 years in order to get pensionary benefits.

8. Sub-rule (3) of the Rule 18 of the Railway Service (Pension) Rules, 1993 under the heading

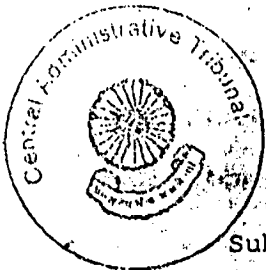
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'Pensionary, terminal or death benefits to temporary railway servants' lays down as below:-

"In the event of death in harness of 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."

Paragraph-20 of the Master Circular No.54 of 1994 lays down as under:-

"20. Counting of the period of service of casual labour for pensionary benefits:- Half of the period of service of a casual labour (either than casual labour employed on Projects) after attainment of temporary status on completion of 120 days continuous service if it is followed by absorption in service as regular railway employee, counts for pensionary benefits. With effect from 1.1.981, the benefit has also been extended to Project Casual Labour."



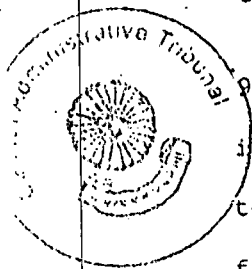
Sub-para-2005(a) of Indian Railway Establishment Manual, Volume-II lays down as under:-

"Casual labour including Project Casual labour shall be eligible to count only half of the period of service rendered by them after attaining temporary status on completion of prescribed days of continuous employment and before regular absorption, as qualifying service for the purpose of pensionary benefits. This benefit will be admissible only after their absorption in regular employment. Such casual labour, who have attained temporary status, will also be entitled to carry forward the leave at their credit to new post on absorption in regular service. Daily rated casual labour will not be entitled to these benefits."

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(20)

Therefore, from the reading of the said provisions it is clear that on absorption whole of the period for which a casual labour worked (after getting temporary status) would have to be counted and half of the period for which he worked without being absorbed have to be counted for pensionary benefits. Therefore, I have no doubt in my mind that once temporary status is granted to an employee half of the service rendered by him as casual labour before getting temporary status has to be counted which include the entire service rendered as casual labourer even prior to re-engagement as per the Scheme.



Therefore, I am of the view that the applicant is entitled 50% of the service rendered w.e.f. 23.12.1976 to 15.4.1979 and from 17.6.1979 to 15.10.1979 and also from 10.11.1982 to 31.12.1983 totaling a service of 3 years 10 months 1 day. 50% of the said period i.e. 1 year 11 months has to be reckoned notionally for the purpose of pensionary benefits. The deceased employee admittedly had 8 years 7 months regular service adding 50% of the period i.e. 1 year 11 months comes to more than 10 years. The minimum required period for grant for family pension is 10 years, and therefore, the applicant is entitled to get the family pension counting 50% of the service rendered before grant of temporary status as stated above. But this period is only to be reckoned notionally for the purpose of grant of family pension.

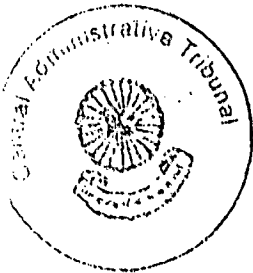
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In the conspectus facts and circumstances of the case and the findings as above, I direct the respondents to grant the applicant admissible family pension within a period of three months from the date of receipt of this order.

The Original Application is allowed as above.

There shall, be no order as to costs.

Sd/ VICE CHAIRMAN



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अनुभाग अधिकारी

Section (C) (Judl)

Central Administrative Tribunal

मुद्राहारी : नमो

GOW. 10/11/06

मुद्राहारी, Central-5

11/8/06

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)

416

W. P. (C) No. 5927 of 2006

Appellant  
Petitioner

Union of India for

*versus*

E Romi Bala Nath.

Respondent	Opposite Party
1	2
3	4
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Appellant Mr. B. Barma  
 Petitioner Miss B. Devi  
Mr. H. K. Das. Rly. Adv.

Respondent M.B.L. Ahmed  
Opposite Party Adv. for caveator

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

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

WP(C) No.5927/06

**PRESENT**

**HON'BLE THE CHIEF JUSTICE B.S.REDDY**  
**HON'BLE MR.JUSTICE B.P.KATAKEY**

**01.12.2006.**

**KATAKEY,J: -**

The Railway Administration by way of this writ petition has challenged the order dated 1<sup>st</sup> August,2006 passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No.28/06 directing the respondents to pay the family pension to the present respondent.

We have heard Mr. S. Sarma, learned counsel for the petitioner and as well as Mr. MBU Ahmed, learned counsel for the respondent.

The petitioners are resisting the order passed by the learned Tribunal basically on two grounds, namely, the Pension Rules does not permit granting of family pension to the family of the deceased employee, he having not completed 10(ten) years of qualifying service and secondly, on the ground of limitation, contending that the original application filed by the present respondent before the learned Tribunal is barred by time.

The learned Tribunal, on the basis of the materials available on record, came to the finding



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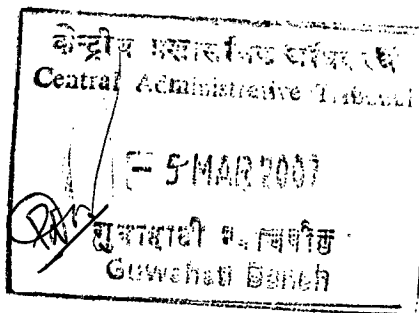
that the husband of the respondent herein before his engagement as Gangman w.e.f. 10.11.82 to 18.8.92, also worked as casual worker for a period of 3 years 10 months 1 day and accordingly in terms of the Master Circular dated 12.8.93, which provides for counting 50% of the period of such casual engagement for the purpose of pensionary benefits, counted 1 year 11 months period towards the qualifying service required for granting family pension. The learned Tribunal has thus found that the deceased employee therefore rendered more than 10 years qualifying service and as such entitled to family pension. The learned Tribunal has also rejected the plea of limitation taken by the Railway Administration by holding that the claim for pensionary benefits being a continuity cause of action, the question of limitation does not arise.

In our considered view, the learned Tribunal has not committed any error apparent on the face of the record, requiring interference by this Court under Article 226 of the Constitution.

Hence, this writ petition is dismissed. No costs.

sd/- Chief Justice

sd/- B. P. Katakay  
Judge



Filed by the petitioner  
through Mr. B.D. Das  
Advocate  
1-3-2007

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH AT GUWAHATI.

[Application under Section 17 of the Central Administrative Tribunal Act, 1985 read with Sections 11 and 12 of the Contempt of Courts Act, 1971]

R.T. 1  
Smt. Erabi Bala  
Nath

CONTEMPT CASE NO. 3 OF 2007.

IN THE MATTER OF :

An application under Section 17 of the Central Administrative Tribunal Act, 1985 read with Section 12 of the Contempt of Court Act, 1971 for initiating a contempt proceeding against the opposite parties.

-AND-

IN THE MATTER OF :

Wilful and deliberate violation of the judgment and order dated 01.08.2006 passed by this Hon'ble Tribunal in O.A.No.28 of 2006.

-AND-

IN THE MATTER OF :

*h 17/2*

Contd....


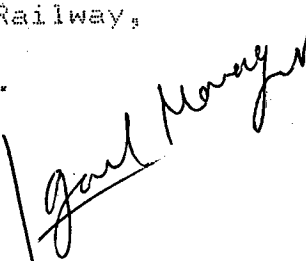


(2)

IN THE MATTER OF :

Srimati Eroni Bala Nath,  
wife of late Manglu Ram Nath,  
Ex.Gangman under CPW1/CON/NJP  
Resident of Village Rampur,  
PO Sorbhog, District Barpeta,  
Assam.

.....Petition

-VS-

1. Shri A.K.Sonwalka,   
General Manager, N.F.Railway,  
Maligaon, Guwahati-11.
2. Shri A.K.Jain,   
Chief Engineer (Con-III),  
N.F.Railway, Maligaon, Guwahati-11.
3. Shri M.Dharmalingam,   
Chief Personal Officer,  
N.F.Railway, Maligaon,  
Guwahati.
4. Sri J.C.Das,   
Assistant Personnel Officer (Con),  
N.F. Railway, New Jalpaiguri,  
West Bengal.

... Opposite Parties  
/Contemners.

Contd....

RTI  
Smt. Eroni Bala Nath

2/13/2

(3)

The humble petition of the petitioner above named.

**Most Respectfully Sheweth:**

1. That the petitioner is a citizen of India and as such entitled to all the right and privileges guaranteed under the constitution of India and the laws framed thereunder.
2. That, the petitioner's husband late Manglu Ram Nath, during his life time, had been working as Gangman since 1982. Prior to his appointment as Gangman the petitioner's husband had been a casual labour under the Opposite Party N.F.Railway since 23.12.1976. The petitioner's husband died in harness on 18.08.1992. However, on being approached by the petitioner the Respondents released only a meagre amount of provident fund and gratuity, but no family pension was released to the bereaved family.
3. That, aggrieved by the inaction of the Respondents the applicant filed Original Application

*2/13/92*

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RTI  
Smt. Brouni  
Bolar Nath

(4)

rendered before grant of temporary status as stated above. But this period is only to be reckoned notionally for the purpose of grant of family pension.

In the conceptus facts and circumstances of the case and the findings as above, I direct the respondents to grant the applicant admissible family pension within a period of three months from the date of receipt of this order. .

The Original Application is allowed as above. There shall be no order as to costs."

A copy of the aforesaid judgment and order dated 01.08.2006 passed in O.A.No.28/2006 is annexed hereto and marked as **ANNEXURE-A**.

5. That, the petitioner immediately obtained a certified copy of the order dated 01.08.2006 passed by this Hon'ble Tribunnal in O.A.No.28/2006 and submitted the same in the office of the opposite party No.1 which has been duly received by them on . Moreover, office of the learned Standing Counsel, N.F.Railway also sent the said order which was received by the concerned authority.

That, the petitioner states that after receipt of communication from the petitioner, the Opposite

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(5)

Parties approached the Hon'ble High Court by way of a writ petition being W.P.(C) No. 8927/2006 challenging the judgment and order dated 01.08.2006 passed in O.A.No. 28/2006. A Division Bench of the Hon'ble High Court after hearing the parties at length vide its judgment and order dated .12.2006 has been pleased to dismiss the said writ petition preferred by the Opposite Parties.

A copy of the judgment and order dated 1-12-2006 passed in W.P(C) No. 5927/2006 is annexed herewith and marked as **ANNEXURE-B.**

7. That the aforesaid order dated 01.08.06 being duly communicated to the contemner/opposite parties, they were duty bound to dispose of the claim of the petitioner within three months therefrom. Even otherwise, after the dismissal of the writ petition preferred by the Respondents till to-day no effective steps has been taken to implement the judgment and order of this Hon'ble Tribunal within the stipulated period.

8. That, the petitioner humbly states that such non-compliance, despite repeated reminders by the petitioner, amounts to nothing but wilful disobedience of the legal order of this Hon'ble Tribunal by the opposite parties. The aforesaid order of this Hon'ble Tribunal besides being binding on the opposite parties are also clear and categorical and should leave no room for

Contd....

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Smt. Eroni bala  
NAR

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ambiguity for the opposite party.

9. That, the petitioner begs to state that such non-compliance of the order of this Hon'ble Tribunal dated 01.08.2006 passed in O.A No.28/2006 even after dismissal of W.P(C) No. 5927/06 amounts to lowering the dignity and honour of this Hon'ble Tribunal.

10. That the petitioner respectfully states that the said non-compliance by the opposite party with the order of this Hon'ble Tribunal dated 01.08.2006 passed in O.A.No.28/2006, constituting wilful disobedience of the Tribunal's order, amounts to committing contempt of this Hon'ble Court for which they are liable to be punished in accordance with provisions of the Contempt of Court Act, 1971 read with provisions of Central Administrative Tribunal Act, 1985 and the Rules framed thereunder.

11. That this application has been made bonafide and in the interest of justice.

It the premises aforesaid, it is respectfully prayed that your Lordship may be pleased to admit this application, issue a notice upon the opposite party/contemner to show cause as to why they should not be punished under the appropriate provisions of the Contempt of Court Act, 1971 read with Section of the

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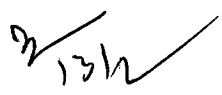
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Smt. Erani Gadhakh

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Central Administrative Tribunal Act, 1985 for their wilful and deliberate disobediences/ violation and/or non-compliance of order dated 01.08.2006 passed in O.A.No.28/2006 and upon cause or causes that may be shown and upon hearing the parties be pleased to pass appropriate order punishing the contemnners /opposite parties for contempt of this Hon'ble Tribunal and/or pass such further or other order's as your Lordship may deemfit and proper.

And for this act of kindness, the petitioner as in duty found shall even pray.

 Affidavit.

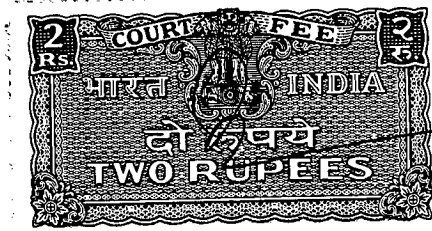
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A F F I D A V I T

I, Srimati Eroni Bala Nath, aged about 51 years, wife of late Manglu Ram Nath, Ex. Gangman under CPW1/CON/NJP, Resident of Village Rampur, PO Sorbhog, District Barpeta, Assam, do hereby solemnly affirm and state as follows:

1. That, I am the petitioner in the accompanying contempt petition and as such I am well acquainted and fully conversant with the facts and circumstances of the case.
2. That, the statements made in this affidavit and in paragraphs 123, 5, 7 & 11 are true to my knowledge and those made in paragraphs 4 & 6 being matter of record of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And in Affidavit whereof I sign on this 13 day of February, 2007 at Guwahati.

Identified by

M. Sarma

Advocate's clerk.

R T I



Deponent.

Solemnly affirmed before me by the deponent who is personally known to me identified by Sri/Smti. M. Sarma

Janakish Chandra  
Sheristadar  
District & Sessions Judge  
Kamrup, Guwahati

13/2/07

(8-A)

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench for initiating a contempt proceeding against the contemners for wilful disobedience and deliberate non-compliance of the order of the Hon'ble Tribunal dated 1-8-2006 passed in O.A.No. 28/2006 and further to impose punishment upon the alleged contemners for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated 1-8-2006.

(9)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 28 of 2006.

Date of Order: This, the 1<sup>st</sup> day of August, 2006.

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

Srimati Eroni Bala Nath  
Wife of Late Manglu Ram Nath  
Ex.Gangman under CPW1/CON/NJP  
Resident of Village Rampur  
P.O: Sorbhog  
District: Barpeta, Assam.

..... Applicant.

By Advocates Mr.M.B.U.Ahmed & S.Sarma.

- Versus -

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Railways  
New Delhi-1.

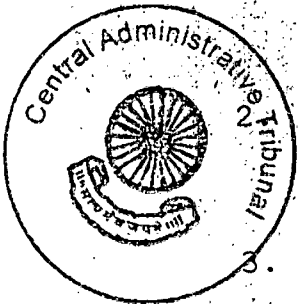
The General Manager  
N.F.Railway, Maligaon  
Guwahati-11.

3. The Chief Engineer (Con-III)  
N.F.Railway, Maligaon  
Guwahati.

4. The Deputy Chief Engineer (Con)  
N.F.Railway, New Jalpaiguri  
West Bengal.

5. The Asstt. Personnel Officer (Con)  
N.F.Railway, New Jalpaiguri  
West Bengal.

6. The Executive Engineer (Con-I)  
N.F.Railway, New Jalpaiguri  
West Bengal.

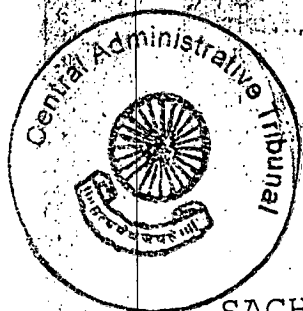


1/8/06

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7. The Chief Personnel Officer  
N.F.Railway, Maligaon  
Guwahati-11.

.....Respondents.

By K.K.Biswas, Railway Counsel.



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C R D E R

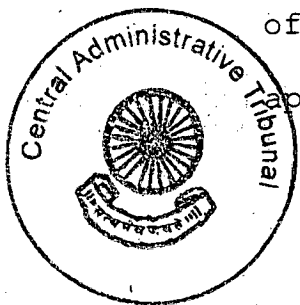
SACHIDANANDAN, K.V., (V.C.):

The applicant is the widow of late Manglu Ram Nath who died in harness on 18.8.1992 while working as Gangman (casual employee) at CPWI/CON, New Jalpaiguri under the N.F.Railway. The applicant pleaded in this Original Application that her husband was engaged as casual labour in the N.F.Railway on 23.12.1976 and continued till 15.4.1979 and after some break again he was engaged as casual labour w.e.f. 17.6.1979 to 15.10.1979. In the same manner the deceased rendered service as casual employee till 1982 and subsequently appointed as Gangman. The name of the applicant's late husband appeared in Sl. No.20 in the list of casual employee showing his Provident Fund No.552949 (Annexure-I dated 8.7.1988). By the said Annexure the Executive Engineer (CON-I)/NJP issued a list of 25 Nos. of P.Way Labours intimating that on their reporting for duty of CAT on 16.8.1988 on being released by DY.CE/CON/MLDT from HCR-KDPR section they would be

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posted under CPWI/CON/NJP with headquarter at CAT in their same scale of pay. Pursuant thereto, the deceased resumed duties as Gangman at New Jalpaiguri and continued upto 18.8.1992 when he breathed his last. While working as such, he suffered from Carcinoma Oesophagus. The death certificate will show that he died on 18.8.1992 (Annexue-II). The widow approached the authority for release of Provident Fund and other pensionary benefits and submitted required documents. The APO(CON), New Jalpaiguri vide letter dated 12.2.1994 endorsed all the documents to FA&CAO (CON), Maligaon for release of the PF amount credited to the deceased PF account (Annexure-III). Vide Annexure-IV another letter was addressed for payment of the same. Though a meagre amount of Provident Fund and Gratuity has been released, the respondents had not released the family pension of the deceased employee. Various representations were made requesting for release of the same (Annexure-V) but the applicant has not yet received the same and therefore, aggrieved by the inaction of the respondents, the applicant has filed this application seeking the following reliefs:-

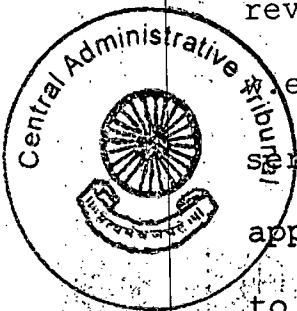
- "(i) To direct the Respondent Authorities to forthwith release the family pension of late Manglu Ram Nath, Ex. Gangman, CPWI/NJP/CON as admissible under the Pension Rules and the Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989 and subsequent schemes of the Government of India.



(ii) To grant any other relief or reliefs to which the applicant may be entitled to and as may be deemed fit and proper by this Hon'ble Tribunal.

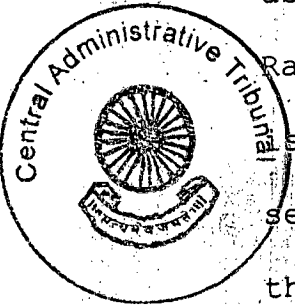
(iii) Cost of this application."

2. The respondents have filed a detailed reply statement contending that, as per record of Service Book the date his engagement was 10.11.1982 and the death was on 18.8.1992. There is no record available therein regarding engagement of late Manglu Ram Nath on 23.12.1976 which continued upto 15.4.1979 and again from 17.6.1979 to 15.10.1979. The records available with the respondents revealed that the deceased was granted temporary status e.f:1.1.1984 after completion of 360 days of continuous service with effect from 10.11.1982. The case of the applicant is hopelessly barred by limitation and contrary to the rules and therefore, the instant application is liable to be dismissed abinitio. The deceased was transferred from the unit Dy. Chief Engineer Construction, Malda and joined under Chief Permanent Way Inspector/Con/New Jalpaiguri on 16.8.1986 and continued upto his death on 18.8.1992. The Provident Fund, Termination Gratuity and Group Insurance (GIS) were paid to the heir of the deceased employee late M. R., Nath, ex-Gangman. Family pension is not admissible under the Rules as the deceased was an unscreened staff and moreover, he



could not completed required 10 years of regular and continuous service till his death. As per Rule 14 of Chapter-II of the Railway Pension Rule, 1993 the casual period of daily rated service of an employee shall not be counted and treated as 'qualifying service' for the pensionary benefit. Railway Organisation is having its own Rules, Regulation and working system to be guided with separately and therefore, CCS Pension Rules 1972 are not applicable in the case of Railways and the citation of the Workman Compensation Act, 1923 in the instant case is also not applicable, and hence, are not admitted and denied to the extent which are contrary to the Rules and working system of the Railways. The matter raises a doubt as the claim of the applicant as real heir of late Manglu Ram Nath, ex-Gangman and thus competency of the applicant is challenged. The continuation of minimum 10 years of service is a must as per extant Railway rules and therefore the applicant cannot be granted family pension inspite of having all sympathy and bereavement for the premature demise of her husband.

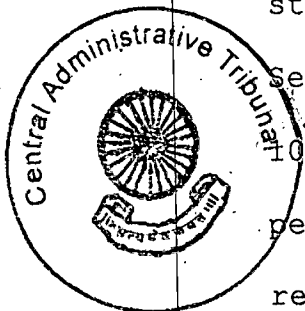
3. The applicant has filed a rejoinder contending that she is legally married wife of the deceased and entitled to get the pensionary benefits. There is some inadvertence in putting her name as "Inrani" instead of "Smti Ironi Bala Nath". She has sworn in an affidavit on 11.4.2006 before the Judicial Magistrate, Kamrup



explaining the fact, - which is annexed at Annexure-A. Admittedly, having rendered not less than 8 years 7 months of continuous service, and reckoning 50% of premium service even assuming as per Railway rules the applicant is entitled to get the family pension.

4. Heard Mr.M.B.U.Ahmed, learned counsel for the applicant and also Mr. K. K. Biwsas, learned Railway counsel for the respondents. Counsel for the parties have taken my attention to various pleadings, materials and evidence placed on record. Counsel for the applicant argued that admittedly the deceased was granted temporary status as Gangman, in which case he must be having a Service Book which will reveal that he had put more than 10 years of service entitling his legal heir to get the pensionary benefit. Mr. Biswas, counsel for the respondents, on the other hand, submitted that the deceased employee had put less than 10 years of service and therefore his legal heir is not entitled to get any family pension as Railway rules does not permit for the same.

5. I have given my due consideration to the pleadings and arguments advanced by counsel for both the parties. The claim for pensionary benefits being a continuing cause of action, the question of limitation does not arise (M. R. Gupta's case). Then short question

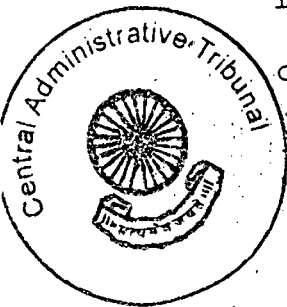


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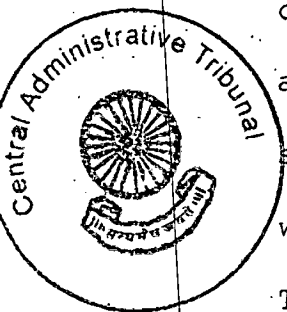
for consideration is whether the deceased husband of the applicant has got qualifying service so as to enable the applicant to get the family pension. The specific case of the applicant is that the deceased employee was engaged as casual labourer on 23.12.1976 and continued till 15.4.1979 and after some break from 17.7.1979 to 15.10.1979 and rendered casual employment service till 1982 and subsequently appointed as Gangman. The applicant has produced photocopy of the Casual Labour Card (Annexure-1 Series) to show that he was engaged as casual labour as averred in the O.A. Annexure-I Series, Page 18 shows that he was engaged during the period 1976-1977 and Pages-16 & 17 show that N.F.Railway has issued the deceased Casual Labour Card to show that he was engaged as a casual labourer prior to 1981. Though the same was issued to the deceased details at to the period in which he was engaged is not clear.

6. The respondents have produced the Service Book of the deceased employee and in the application for Death cum Retirement Gratuity it is stated that date of his beginning in service is from 10.11.1982 and the date of ending service is 18.8.1992 (Form No.8) and the temporary status was granted to him w.e.f. 1.1.1984 and the amount of Gratuity were disbursed on the basis of the said period of service. There is no entry for previous service, but it is evident that he was granted temporary status w.e.f.



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1.1.1984 in terms of the Railway Board letter dated 11.9.1986 alongwith the casual employees who had completed 360 days of continuous service after 10.11.1982. Therefore, the deceased was absorbed as per the Scheme and the letter issued by the Railway Board mentioned above. The previous service of the employee, if any, should be counted for terminal benefits. Specific case of the respondents is that there is no document to prove that the deceased was engaged from 23.12.1976 till upto 15.4.1979 and from 17.6.1979 to 15.10.1979 and the deceased could not complete 10 years of service till his death and as per Railway Pension Rule 1993, Rule 14 of Chapter-II, the casual period of daily rated employee shall not be treated as 'qualifying service' for the pensionary benefit. The specific case of the applicant is that the deceased had worked for few years prior to grant of temporary status. To substantiate her contention, she has produced Casual Labour Card (Annexure-1 Series) which will through light that the deceased had worked prior to 1981. Obviously the benefit of the Scheme was granted to the applicant's late husband only on the ground that he was engaged prior to 1981. As per the decision of the Supreme Court in Indrapal Yadav's case the scheme was promulgated for absorption of such casual labourers. When the Service Book of the deceased has been opened, the respondents should have collected all the materials of his previous service and



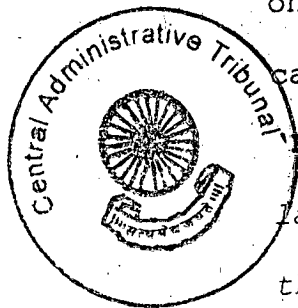
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made entry therein which was not done in the present case.

Annexure-1 Series Casual Labour Cards also through light that the late Manglu Ram Nath was engaged for certain time and in the absence of any other contra-evidence it has to be taken that he was in engagement as casual labourer from 23.12.1976 to 15.4.1979 and from 17.6.1979 to 15.10.1979. The averment in the O.A. in this regard and the documents produced has no reason to be doubted.

7. My attention was taken to the Master Circular dated 12.8.1993 issued by the General Manager, N.E.F. Railway consolidating all the letters, rules and instructions on the casual labour subject in a single body as a Master Circular copy of which is produced and placed on record in which various benefits available to such casual labourers are listed under the heading **'Entitlements of Privileges'**. It is stated therein "casual labourers are not entitled to any privileges other than those statutorily admissible under the Labour Laws such as Minimum Wages Act, WC Act, I.D. etc. or those specifically sanctioned by the Board from time to time". As to the entitlement of the casual labour who have attained temporary status, in para 11.2(c) it is stated as under:-

"to count half of the service rendered (i) in the case of open line casual labour after 1.1.61 (after attaining temporary status) and (ii) in the case of Project casual Labour (after attaining temporary status) after 1.1.81, towards qualifying service for



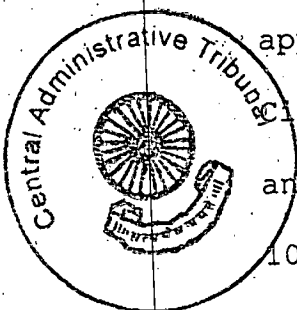
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(18)

pensionary benefits on their eventual absorption in a regular post".

Admittedly, the deceased was absorbed in the regular post at the time of his death and even according to the respondents he was in service from 10.11.1982 till his death i.e. upto 18.8.1992. The case of the respondents is that was granted temporary status w.e.f. 1.1.1984 after completion of 360 days of continuous service from 10.11.1982 and therefore that period cannot be treated for pensionary benefits. Since the deceased could not complete required 10 years of continuous service for grant of family pension, such benefits cannot be given to the applicant. Contrary to the rules mentioned in the Master Circular above. The spirit of the said rule is that once an employee is regularised the service rendered from 10.11.1982 to 1.1.1984 i.e. 360 days of service and prior casual labourers service rendered if any should be considered for pensionary benefits. Of course, 50% of the aforesaid period only can be counted for the same. If 50% of the service rendered w.e.f. 23.12.1979 to 15.4.1979 and 17.6.1979 to 15.10.1979 is reckoned, this Tribunal is of the view the deceased will have 'qualifying service' of 10 years in order to get pensionary benefits.

8. Sub-rule (3) of the Rule 18 of the Railway Service (Pension) Rules, 1993 under the heading



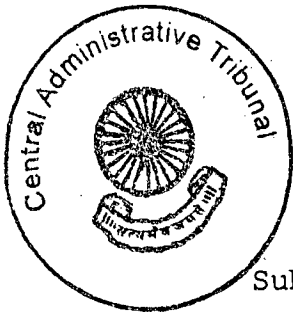
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'Pensionary, terminal or death benefits to temporary railway servants' lays down as below:-

"In the event of death in harness of 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."

Paragraph-20 of the Master Circular No.54 of 1994 lays down as under:-

"20. Counting of the period of service of casual labour for pensionary benefits:- Half of the period of service of a casual labour (either than casual labour employed on Projects) after attainment of temporary status on completion of 120 days continuous service if it is followed by absorption in service as regular railway employee, counts for pensionary benefits. With effect from 1.1.981, the benefit has also been extended to Project Casual Labour."

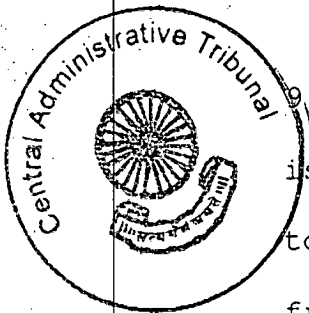


Sub-para-2005(a) of Indian Railway Establishment Manual, Volume-II lays down as under:-

"Casual labour including Project Casual labour shall be eligible to count only half of the period of service rendered by them after attaining temporary status on completion of prescribed days of continuous employment and before regular absorption, as qualifying service for the purpose of pensionary benefits. This benefit will be admissible only after their absorption in regular employment. Such casual labour, who have attained temporary status, will also be entitled to carry forward the leave at their credit to new post on absorption in regular service. Daily rated casual labour will not be entitled to these benefits."

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Therefore, from the reading of the said provisions it is clear that on absorption whole of the period for which a casual labour worked (after getting temporary status) would have to be counted and half of the period for which he worked without being absorbed have to be counted for pensionary benefits. Therefore, I have no doubt in my mind that once temporary status is granted to an employee half of the service rendered by him as casual labour before getting temporary status has to be counted which include the entire service rendered as casual labourer even prior to re-engagement as per the Scheme.



Therefore, I am of the view that the applicant is entitled 50% of the service rendered w.e.f. 23.12.1976 to 15.4.1979 and from 17.6.1979 to 15.10.1979 and also from 10.11.1982 to 31.12.1983 totaling a service of 3 years 10 months 1 day. 50% of the said period i.e. 1 year 11 months has to be reckoned notionally for the purpose of pensionary benefits. The deceased employee admittedly had 8 years 7 months regular service adding 50% of the period i.e. 1 year 11 months comes to more than 10 years. The minimum required period for grant for family pension is 10 years, and therefore, the applicant is entitled to get the family pension counting 50% of the service rendered before grant of temporary status as stated above. But this period is only to be reckoned notionally for the purpose of grant of family pension.

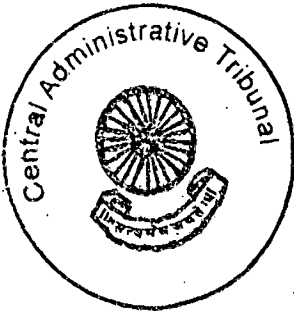
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(21)

In the conspectus facts and circumstances of the case and the findings as above, I direct the respondents to grant the applicant admissible family pension within a period of three months from the date of receipt of this order.

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

Sd/ VICE CHAIRMAN



BB

TRUE COPY

प्रतिलिपि

4.8.06

अनुभाग अधिकारी

Section (I) (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

GUWAHATI BENCH

गुवाहाटी, Guwahati-5

4/8/06

Gifted  
M. B. B. B.  
Advocate





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

**WP(C) No.5927/06**

**PRESENT**

**HON'BLE THE CHIEF JUSTICE B.S.REDDY  
HON'BLE MR.JUSTICE B.P.KATAKEY**

**01.12.2006.**

**KATAKEY,J: -**

The Railway Administration by way of this writ petition has challenged the order dated 1<sup>st</sup> August,2006 passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No.28/06 directing the respondents to pay the family pension to the present respondent.

We have heard Mr. S. Sarma, learned counsel for the petitioner and as well as Mr. MBU Ahmed, learned counsel for the respondent.

The petitioners are resisting the order passed by the learned Tribunal basically on two grounds, namely, the Pension Rules does not permit granting of family pension to the family of the deceased employee, he having not completed 10(ten) years of qualifying service and secondly, on the ground of limitation, contending that the original application filed by the present respondent before the learned Tribunal is barred by time.

The learned Tribunal, on the basis of the materials available on record, came to the finding

(24)

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

that the husband of the respondent herein before his engagement as Gangman w.e.f. 10.11.82 to 18.8.92, also worked as casual worker for a period of 3 years 10 months 1 day and accordingly in terms of the Master Circular dated 12.8.93, which provides for counting 50% of the period of such casual engagement for the purpose of pensionary benefits, counted 1 year 11 months period towards the qualifying service required for granting family pension. The learned Tribunal has thus found that the deceased employee therefore rendered more than 10 years qualifying service and as such entitled to family pension. The learned Tribunal has also rejected the plea of limitation taken by the Railway Administration by holding that the claim for pensionary benefits being a continuity cause of action, the question of limitation does not arise.

In our considered view, the learned Tribunal has not committed any error apparent on the face of the record, requiring interference by this Court under Article 226 of the Constitution.

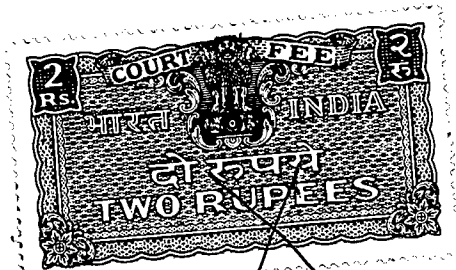
Hence, this writ petition is dismissed. No costs.

Certified to be true  
 Yatin B. V. Dhruv  
 Advocate

Sd. Chief Justice

Sd. B. P. Kataria  
 Judge

DISTRICT: Barpeta



**VAKALATNAMA**

**IN THE GAUHATI HIGH COURT**

( THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,  
MIZORAM AND ARUNACHAL PRADESH )

RTI

Erani Bala Nath

Cont. NO \_\_\_\_\_ OF 2007

PETITIONER/ APPELLANT / PLAINTIFF

Smt. Erani Bala Nath

VERSUS

Sri A.K. Sonwalla & other  
Nya Railway

OPPOSITE-PARTY/ RESPONDENT/ DEFENDANT

Know all men by these presents that above named  
Smt. Erani Bala Nath do hereby nominate, constitute and  
appoint MR. Matin B. O. Ahmed, M. Sarma

Advocate and such of the undermentioned  
Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates  
to appear and act for me/us in mater noted above and in connection therewith and  
for that purpose to do all acts whatsoever in that connection including depositing or  
drawing money filing in or taking out papers, deeds of composition etc. for me / us  
and on my /our behalf and I / We agree to ratify and confirm all acts to be done by  
the said Advocates as mine/ours to all intents and purposes. In case of non-payment  
of the stipulated fee in full, no Advocate will be bound to appear and act on my /our  
behalf,

In witnesses whereof I/We hereunto set my/our hand on this 19  
day of February 2007

Received from  
executant, satisfied  
and accepted.

Mr. \_\_\_\_\_ Senior Advocate  
will lead me/us in the case

Accepted

Advocate

Matin B. O. Ahmed  
Advocate

M. Sarma  
Advocate

Filed by:-  
K.K. Biswas  
10/04/2007  
Railway Advocate

**VAKALATNAMA**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH.**

**Contempt Petition No. 3 of 2007**  
**(OA No. 28 of 2006)**

**Smt Eroni Bala Nath** ..... Petitioner

**-Vs-**

**Sri M. Dharmalingam, CPO/N.F. Rly** ..... Respondent/Contemner

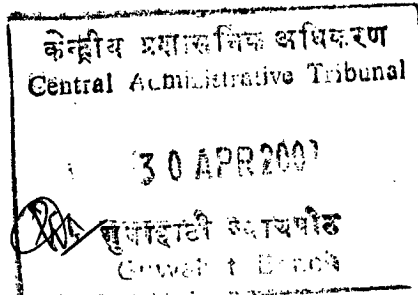
I/We Sri M. Dharmalingam, Chief Personnel Officer/N.F. Railway of the Northeast Frontier Railway Administration, do hereby appoint and authorize Shri K. K. Biswas, Rm. Adv. to appear, act, apply, plead in and prosecute the above described to file and take back documents, to accept processes of the court to appoint and instruct Counsel, Advocate, Pleader to withdraw and deposit moneys and generally to represent the undersigned in the above described C.P.N. 3/07 and to do all things incidental to such appearing, applying, pleading and prosecuting for the undersigned SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf as previously been obtained from the undersigned, the Govt. Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the \_\_\_\_\_ against all or any of the opposite parties or enter into any agreement settlement or compromise whereby the case is/ are wholly or partly adjusted or refer all or any matter or matters arising or 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 an omission to settle or compromise should be definitely prejudicial to the interest of the opposite parties the said Advocate/Pleader/Counsel may enter into any agreement, settlement or compromise thereby the Civil Rule/proceedings is/ are wholly or partly adjusted and in every such case the said Advocate/Pleader/ Counsel shall record and communicate forthwith to the undersigned the special reasons for entering into the agreement, settlement or compromise.

I/ We, hereby agree to ratify all acts done by the aforesaid Shri K. K. Biswas in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed on this 9th day of April 2007.

Mmmml  
(Sri M. Dharmalingam)  
Chief Personnel Officer,  
N.F. Railway, Maligaon.

Chief Personnel Officer  
N.F. Railway, Maligaon  
Guwahati-11



Filed by:  
N.F. Railway  
30.4.07  
Advocate

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

✓  
Mmt

Chief Personnel Officer  
N.F. Railway Maligaon  
Guwahati-781 001

C. P. No. 3 of 2007

In OA No. 28 of 2006

Srimati Eroni Bala Nath ..... Petitioner/Applicant

-Vs-

.....

....., N.F. Railway, Maligaon & others.....

Contemnors/Respondents

The humble petition on behalf of the Contemnors/Respondents  
above named

**MOST RESPECTFULLY SHEWETH:**

1. That it is humbly submitted that the Contemnors/Respondents received the Hon'ble CAT's order dated 08-03-2007 in the above Contempt Petition arising out of OA No. 28 of 2006 and have gone through the orders of the Hon'ble Tribunal along with the contents of the contempt petition filed by the above named Petitioner / Applicant.
2. That for brevity and clarity of the case meticulous para-wise reply of the contempt petition is avoided and the Contemnors /Respondents with the most placid submission state as under:
3. That on receipt of the copy of the order in OA No. 28 of 2006 passed by this Hon'ble Tribunal on 01-08-2006 the Contemnors/Respondents on perusal of the Railway Rules felt that there were grounds for filing Appeal and that was why a Petition under No. WP (C)/5927 of 06 was

filed in the Hon'ble Gauhati High Court albeit the said Appeal was dismissed by the Hon'ble High Court vide order dated 01-12-2006 upholding the Hon'ble Central Administration Tribunal's order.

Photo copies of the above ORDERS have annexed as ANNEXURE A & B of the Contempt Petition.

4. That it is submitted that the Contemnors /Respondents - Zonal Railway Administration then referred the matter to the Ministry of Railways, Railway Board, New Delhi as to what further steps would be taken in the matter. And the Railway Board after examining the case by their legal experts referred it to the Ministry of Law & Justice, Govt. of India, Central Law Agency, Supreme Court - complex, for their opinion in respect of filing SLP in the Hon'ble Supreme Court.
5. That it is submitted that the learned Additional Solicitor General, Govt. of India, accorded his valued opinion that it was a fit case for filing SLP in the Hon'ble Supreme Court and accordingly the SLP was filed in the Hon'ble Supreme Court under No. SLP (C)/10170 on 05-04-07.

A Photocopy of the Memo of filing of SLP is enclosed as Annexure - I.

6. That it is humbly submitted that till disposal of the above SLP by the Hon'ble Supreme Court your Lordship may be pleased to pass orders for stay of the above contempt petition.
7. That in this connection it is also submitted that the Contempt Petition is not maintainable on the grounds of mis-joinder of Contemnors, that is, Contemnors No. 2 and 4, as there are no Chief Engineer (Con - III), N.F. Railway, Maligaon as Sri A.K. Jain by name and no Assistant Personnel Officer (Con), N.F. Railway, New Jalpaiguri,

Amund  
F. 2000  
F. 1000  
G. 1000

- Contd... p/4..Verificaton**

## VERIFICATION

I,.....M. DHARMALINGAM son of ..... P. MUTHUSAMY RAJA (Late)  
 aged about 53 years, by profession.....chief personnel officer  
 Northeast Frontier Railway, Maligaon, Guwahati-781011 do hereby  
 solemnly affirm and verify that the contents of paragraphs 1 to 5 are derived  
 from official records and true to my knowledge, information and belief and  
 the paras 6 to 11 are my humble and respectful submission before this  
 Hon'ble Tribunal.

And I sign this Verification on this .....13<sup>th</sup> day of April  
 2007.

Place :Maligaon

Date: 13-4-07

✓  
 \_\_\_\_\_  
**Signature of the Contemnor above named.**

Chief Personnel Officer  
 N.F. Railway, Maligaon  
 Guwahati-11

**To  
 The Deputy Registrar,  
 Central Administrative Tribunal,  
 Guwahati.**



# IN THE SUPREME COURT OF INDIA

CIVIL/CRL/APPELLATE/ORIGINAL JURISDICTION

Sl. No. XIV

f. 600/07

SPECIAL LEAVE PETITION (CIVIL/CRL.) NO.

OF 200 7

CIVIL/CRIMINAL/APEAL/WRIT PETITION NO.

OF 200

CIVIL/CRIMINAL/MISC. PETITION NO.

OF 200

IN THE MATTER OF :

Union of India & ors

VERSUS

Smt. Exone Bala Nath

Dy. 10/4/0

5/4/07

PETITIONER (S)

RESPONDENT (S)

## INDEX

Sl. No.	Particulars	Copies	Court Fees
1.	List of Dates	1 + 3	
2.	Final judgment order		
3.	dt. 1.12.2006 passed by H.C.		
4.	of Certificate in W.P. (C) 5927/06		
5.	SCP with affidavit -		262/-
6.	Annexure P-1 & P-6		12/-
7.	App for stay		20/-
8.	App for JC/D		10/-
9.	W.A		8/-
10.			

TOTAL Rs. 312 = 00

(D.S. Mahapatra)

New Delhi

Advocate for the Petitioner (s)/Respondent(s)  
Appellants(s)/Caveator/Intervenor

Dated : 5-4-07

972

From:

Sri K.K. Biswas,

Advocate.

Central Administration Tribunal,

Guwahati.

To:

Sri B. V. Ahmed

Advocate,

CAT/Guwahati.

Dear Sir,

C.P. No. 3 of 2007 in

Sub: O.A. No. 28 of 2006

Smt. Ebone Bala Nali 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/Petitioner  
~~Respondents/Opposite Parties.~~

With thanks,

Yours faithfully,

K.K. Biswas

(K.K. Biswas)

Advocate,

CAT/Guwahati.

Dated 13/4/2007  
30

I undertake the  
responsibility to hand  
over the Petitioner's  
counsel's copy.  
K.K. Biswas  
30.4.07  
Advocate

From:

Sri K.K. Biswas,

Advocate.

Central Administration Tribunal,

Guwahati.

To:

Mr. M. B. U. Ahmed,

Advocate,

CAT/Guwahati.

Dear Sir,

C.P. No. 3 of 2007 in

Sub: O.A. No. 28 of 2006

Smt. Erone Bala Nali Applicant/Ptitioner

VS.

Union of India and Qrs. -----

Respondents/Opposite Parties.

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

With thanks,

Yours faithfully,

K.K. Biswas

( K.K. Biswas )

Advocate,

CAT/Guwahati.

Dated 13/4/2007  
30

Received  
the copy  
H.B.U. Ahmed  
3-5-2007

**VAKALATNAMA**

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH.**

**Contempt Petition No. 3 of 2007**  
**(OA No. 28 of 2006)**

**Smt Eroni Bala Nath ..... Petitioner**


**-Vs-**

**Shri A. K. Jain..... Respondent/Contemner**

I/We SHRI A. K. JAIN G.M.(cm) of the Northeast Frontier Railway Administration, do hereby appoint and authorize Shri K. K. Biswas to appear, act, apply, plead in and prosecute the above described to file and take back documents, to accept processes of the court to appoint and instruct Counsel, Advocate, Pleader to withdraw and deposit moneys and generally to represent the undersigned in the above described C.C.P No. 2/07 and to do all things incidental to such appearing, applying, pleading and prosecuting for the undersigned SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf as previously been obtained from the undersigned, the Govt. Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the \_\_\_\_\_ against all or any of the opposite parties or enter into any agreement settlement or compromise whereby the case is/ are wholly or partly adjusted or refer all or any matter or matters arising or 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 an omission to settle or compromise should be definitely prejudicial to the interest of the opposite parties the said Advocate/Pleader/Counsel may enter into any agreement, settlement or compromise thereby the Civil Rule/proceedings is/ are wholly or partly adjusted and in every such case the said Advocate/Pleader/ Counsel shall record and communicate forthwith to the undersigned the special reasons for entering into the agreement, settlement or compromise.

I/ We, hereby agree to ratify all acts done by the aforesaid Shri K. K. Biswas in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed on this 9th day of April 2007.

  
General Manager,  
N. F. Railway (Construction)  
Maligaon, Gauhati-781011.

Accepted.  
K. K. Biswas  
Railway Counsel  
09-05-2007

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal

25 JUL 2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

Chief Personnel Officer  
N.F. Railway, Maligaon  
Guwahati-781 001

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI**

**C. P. No. 3 of 2007**

**in OA No. 28 of 2006**

**Srimati Eroni Bala Nath .....Petitioner / Applicant**

**- Vs -**

*Sri M. Dharmalingam,.....*  
*Chief Personnel Officer,*  
*N. F. Railway, Maligaon & Others .....*

**Contemnors/Respondents**

**IN THE MATTER OF :**

**Rejoinder to the Written Statement**

**Submitted by the Contemnors /**

**Respondents.**

1. That on receipt of the copy of the order in OA No. 28 of 2006 passed by this Hon'ble Tribunal on 01.08.2006 the Contemnors/Respondents on perusal of the Railway Rules felt that there were grounds for filing Appeal and that was why a Petition under No. WP (C)/5927 of 06 was Filed in the Hon'ble Gauhati High Court albeit the said Appeal was dismissed by Hon'ble High Court.

Contd .. p/2.. 2. That it is

Filed thro:  
Mr. P. S. Das  
25/7/07  
Advocate

✓ Mmm

Chief Personnel Officer  
N F. Railway, Maligaon  
Guwahati-78

2. That it is stated that the Contemnors / Respondents in their Written Statement dated 13. 4. 07 humbly submitted that after the dismissal of the Writ Petition in the Gauhati High Court the Contemnors/Respondents filed SLP under No. SLP (C) / 10170 in the Hon'ble Supreme Court in accordance with the advice & opinion of the Ministry of Law & Justice, and the learned Additional Solicitor General, Govt. of India.
3. That it is submitted that the Hon'ble Apex Court on 14. 5. 2007 without going into the Law-points dismissed the above SLP. And the Telephonic / Fax message of the above dismissal was submitted by the Contemnors / Respondents in their earlier submissions before this Hon'ble Tribunal.
4. That it is submitted that on receipt of the news of the above SLP's dismissal the Contemnors / Respondents took all necessary steps for immediate compliance of this Hon'ble Tribunal's order passed in the above O.A.
5. That it is submitted that the Contemnors/Respondents deputed one special messenger to contact the Applicant at her home to obtain her recent photographs and signatures in the necessary papers for her granting Family Pension as ordered by this Hon'ble Tribunal in the above O.A.

Contd... p/3. 6. That it is

-3-

6. That it is submitted that after observing all necessary formalities and following the prevailing System & Rules the Family Pension was granted to the Applicant & a Pension Payment Order under No. PNO/PN/0106070061 (F) dated 19.07.2007 issued advising all concerned for release of the Pension to the Applicant forthwith.

A photocopy of the above PPO is annexed as ANNEXURE – 1.

7. That in re-iterating the earlier submissions under paras-8 & 9 of the Written Statement the Contemnors/Respondents further submit that the delay in compliance of this Hon'ble Tribunal's order in the above O.A. was beyond the control of the Contemnors / Respondents and not at all deliberate and intentional and the Contemnors / Respondents have got and also shall have due respect and regards to this Hon'ble Tribunal and its order.

8. That with suave submission it is stated that in view of the compliance of this Hon'ble Tribunal's Order passed in the above O.A. mentioned under paras 5 & 6 above it is prayed that the Hon'ble Tribunal may be pleased to drop the Contempt proceedings and close the Contempt Petition Thereof.

The inconveniences caused are, however, regretted.

Contd. p/4.. VERIFICATION

**VERIFICATION**

I, ...M.: ...DHARMA LINGAM... son of ...P. MUTHUSAMY RAJA (Late)  
aged about 52 years, by profession ...Chief Personnel Officer...  
Northeast Frontier Railway, Maligaon, Guwahati -781011, do hereby  
solemnly affirm and verify that the contents of the statements  
mentioned under paras 1 to 6 are derived from the records and true  
to the best of my knowledge, information and belief and the statements  
under 7 to 8 paras are my respectful and humble submission before  
this Hon'ble Tribunal and I have not suppressed any material facts.

AND I sign this verification on this 24<sup>th</sup> day of July/2007.

Place : Maligaon  
Date : 24.7.2007

✓   
Signature of the Contemnor above named

Chief Personnel Officer  
N.F. Railway, Maligaon  
Guwahati-11

To

The Registrar,  
Central Administrative Tribunal,  
GUWAHATI



NORTHEAST FRONTIER RAILWAY पूर्वोत्तर सीमा रेलवे

Office of the F. A & Chief Accounts Officer वित्त सहायक एवं मुख्य लेखा अधिकारी का कार्यालय  
Maligaon, Guwahati-11 मालिगाँव, गुवाहाटी-11  
पावती देय सहित निबंधित Registered with A/D

Dated: 19-07-2007

नं. पां./पी.एन. No. P.N./P.N. 0106070061 (F)

सेवा में / To

प्रबंधक/ The Manager (मबन्क शाखा/Link Branch Bank)

State Bank of India, Guwahati, Panbazar  
P.O. Guwahati-781001, Assam.

महोदय/Sir,

मैं फोटो को दो प्रति पेंशनभोगी का नमूना हस्ताक्षर (प्रपत्र-10), पदनाम निहा (प्रपत्र-11) परिवार पेंशन का अग्रिम स्वीकृति स्थापन-पत्र, पेंशनभोगी की मृत्यु हो, जाने पर पेंशन के वकाला के भुगतान के लिये नामजदगी के साथ श्री/श्रीमती..... के पत्र में..... स्थित आप की भुगतान शाखा (खाता सं.....) वार विनांक..... से प्रतिमाह उसके वचत बैंक/चालू खाता में पेंशन..... रु. राहत..... रु. कुल..... रु. के आकलन के लिए संलग्न पेंशन भुगतान आदेश सं. पी. ई. एन/..... (संचितरक का हिस्सा और पेंशनभोगी का हिस्सा दोनों) अग्रप्रेषित कर रहा हूँ।  
रु. का विनिमित्त मुल्य..... रु. की राशि को भी उसके वचत बैंक खाता में जमाकर दिया जाए। विनिमित्त पेंशन की राशि उसकी मूल पेंशन से घटा दी जाए, और विनिमित्त के बाद शेष रहित पेंशन की कुल देय राशि..... रु. इस समय पर राहत बढ़ोतरी की राशि मूल पेंशन..... रु. मात्र को राशि पर स्वकार्य है।

I am forwarding herewith pension payment order No. P.N. 0106070061 (F) D. 19-07-2007 (both disbursement portion and pensioner's portion) in favour of Shri/Smti. Etorn Bala Naik, W/o H. Mangla Ram Naik, along with two copies of photographs, specimen signature of the pensioner (form 10), Identification mark (form 11) advance sanction memorandum of Family Pension and Nomination for payment of Arrears of pension on the death of pensioner for credit of pension of Rs. 375/- w.e.f. 19-8-72 to Rs. 1275/- w.e.f. 01-01-96 Plus relief admissible from time to time (Rupees 1275/- w.e.f. 19-8-1972) per month in his/her S.B./Current account through your paying branch at SBI/Sankhag (A/c No. P-2989) An amount of Rs. 1275/- (Rupees) being the commuted value of Rs. 1275/- shall also be credited to his/her S.B. Account. The amount of pension commuted shall be reduced from his original pension and the total amount of pension with relief payable after commutation is Rs. 1275/- (Rupees) w.e.f. the date of payment.

Relief as increased from time to time is admissible on original pension of Rs. 375/- and Rs. 1275/- 50% D.P. on basic pension Rs. 1275/- is also admissible w.e.f. 01-01-2007. only. A Relief Chart is also enclosed with The P.P.O. Booklet for your ready reference.

पेंशनभोगी की मृत्यु होने को दशा में परिवार पेंशन का विवरण:

Details of family Pension in case of death pensioner:

नाम- श्री/श्रीमती Name Shri/Smti.:

संबंध Relationship:

परिवार पेंशन की दर Rate of family Pension:

1) बढ़ित Enhanced Rs. /रु.....

2) सामान्य Normal Rs. /रु.....

विवरण पेंशन भुगतान आदेश में ही दिये गये हैं Details are embodied in the PRO itself

कृपया पावती दें Kindly acknowledge receipt.

संलग्नशीट एवं दो फोटो Encls. .... sheets & 2 photographs.

प्रतिलिपि सूचनार्थ Copy for information to:

1. मुख्य कार्यालय अधिकारी, बजट पू. सी. रेलवे/मालिगाँव CPO/Budget/N. F. Rly/ Maligaon

2. Gm/Con/Maligaon

3. श्री/श्रीमती Shri/Smti. Etorn Bala Naik, W/o H. Mangla Ram Naik, P.O. Sankhag, Dist: Barpeta, Assam.

उनसे अनुरोध है कि वे शाखा प्रबंधक से सूचना प्राप्त होने पर बैंक की भुगतान शाखा में उपस्थित हो प्रो/शे requested to appear before paying branch of the Bank on receipt of advance from the Branch Manager.

4. शाखा प्रबंधक को सूचनार्थ। उनसे अनुरोध है कि वे इस योजना के पैरा 8-2 (i) के अनुसार पेंशनभोगी की सूचित करें और उसके वचत बैंक/चालू खाता में पेंशन का आकलन करें। Branch manager, SBI/Sankhag for information. He is requested to advise pensioner in terms of para 8.2 (i) of the scheme and credit pension in his/her S.B./Current Account. He is requested also to handover the PPO of pensioner's portion to pensioner.

5. वित्त सहायक एवं मुख्य लेखा अधिकारी/..... रेलवे  
FA & CAO/..... Rly.

भवदीय Yours faithfully

For Designated FA & CAO/Pen

N. F. Railway, Maligaon

कुल पदनामित वित्त सहायक एवं

मुख्य लेखा अधिकारी/पेंशन

पू. सी. रेलवे, मालिगाँव

Asstt. Personal Officer/Con.-I  
N. F. Railway, Maligaon  
Guwahati-781011

कुल वित्त सहायक एवं मुख्य लेखा अधिकारी/पेंशन

For F. A. & Chief Accounts Officer/Pen

पू. सी. रेलवे, मालिगाँव N. F. Railway, Maligaon