

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 202/2007

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SECTION OFFICER (Judl.)

Shalita  
06.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 202/07

2. Mise Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Mr. L. Naik alias S. Devi ~~vs~~ Union of India & Ors

Advocate for the Applicants: Adil Ahmed, Ms. S. Bhattacharya

Advocate for the Respondents: CGSC

Notes of the Registry	Date	Order of the Tribunal
1. Application is in form is filed C.C. F. for Rs. 50/- disposed of vide IPC/BD No. 34/66542/96.	02.08.07.	Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.

Vice-Chairman

DR DR DR  
2. Registrar

Petitioner's copy & service  
notices one received with  
envelopes.

DR

Received copy for Mrs. H. Das  
Add. CGSC,

Mr. Sonu Ch. Deka

10.8.07

DR  
10/8

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**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH**

Original Application No. 202 of 2007

Date of Order: This the 1<sup>st</sup> Day of August, 2007.

**HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN**

1) Smti. Lakhi Naik alias  
Savitri Devi  
Wife of No.14117338  
P.T. Mazdoor  
Late Bheemu Naik  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/o Yamu  
Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

2) Radha Naik  
Daughter of Smti. Lakhi Naik alias  
Savitri Devi  
C/o Yamu  
Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

3) Shri Sanjay Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

4) Shri Kunjo Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

5) Shri Pawan Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

6) Smti Jyotika Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

7) Smti Pinki Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

...Applicants  
By Advocate Mr .A.Ahmed  
-VERSUS-

1) The Union of India represented by the  
Secretary to the Government of India,  
Ministry of Defence, 101 South Block,  
New Delhi-110 001.

2) The Director General  
Supply Corps,  
Army Service Corps  
New Delhi  
Army Head Quarter  
New Delhi-11.

3) The General Officer  
Commanding-in-Chief  
H.Q.-Eastern Command  
Pin-908542  
C/o 99 APO

4) The Commanding Officer,  
50 Coy, ASC (Supply)  
Type-C,  
Pin-905050  
C/o 99 APO.

5) Laxmi Naik  
Daughter of Late Bheemu Naik  
No.14117338  
P.T. Mazdoor  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/o Gopla Nayak  
Near Gas Agency  
Half Nagarjan  
Dimapur, Nagaland

6) Shri Dayanidhi Naik  
Son of Late Bheemu Naik  
No.14117338  
P.T.Mazdoor  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/O Gopla Nayak  
Near Gas Agency  
Half Nagarajan  
Dimapur, Nagaland. Respondents

By Advocate Mrs. M.Das, Addl.C.G.S.C  
K.V.SACHIDANANDAN ORDER (ORAL)

The Applicant No.1 is the wife of Late Bheemu Naik, Ex-Permanent Mazdoor in the office of the 50 Coy, ASC (Supply), Type-C, C/O 99 APO. The applicant Nos.2 to 7 are sons and daughters of Applicant No.1 and Late Bheemu Naik who expired on 10.07.1999 while he was serving under Respondent No.4. At the time of his death he was staying along with Applicant Nos.1 to 7. Applicant No.1 is the second wife of Late Bheemu Naik whom the deceased married after death of his first wife. The contention of the applicant is that the Respondent Nos.5 & 6 being major are not entitled to monthly family Pension. After death of Bheemu Naik, Applicant No.1 applied before the Respondent No.4 for granting her Pensionary benefit including Family Pension etc. The Respondent No.4 granted only Pensionary benefits excluding monthly family Pension to the Son of Bheemu Naik (respondent No.6) who was born from his first wife. The applicant has submitted representations before the Respondent No.2 for release of her monthly family pension. But the respondents vide order dated 22.5.2007 rejected her representations stating that as per the inputs received from the unit received from the unit, Late Bheemu Naik had made the nominations in the name of his son Dayanidhi Naik, hence all financial benefits have been accrued to his son. Aggrieved by the

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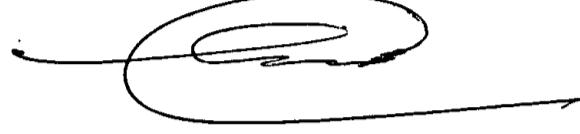
certain action of the Respondents the applicant has filed this O.A. seeking the following reliefs:-

- 8.1. That the Hon'ble Tribunal may be pleased to direct the Respondents particularly Respondent Nos.1 to 4 to pay the monthly Family Pension to the Applicant No.1 to 7 and also may be pleased to set aside the impugned Rejection Order 202768/18/A7 dated 22, May 2007.
- 8.2. To pass any other relief or relieves to which the Applicant No. 1 to 7 may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

2. I have heard Mr. A. Ahmed learned counsel for the applicant and Mrs. M. Das learned Addl.C.G.S.C. for the Respondents. When the matter came up for hearing the learned counsel for the applicant has submitted that he will be satisfied if direction is given to the applicant to make a fresh representation before the Respondents with all evidence and the respondents shall consider the same within the time frame. He also submitted that direction may be given to the respondents to be shown the name of her children as legal heir for entitlement of Pensionary benefits. Counsel for the respondents has submitted that she has no objection if such direction is given. Therefore, I direct the applicant to make a comprehensive representation within a period of three weeks from the date of receipt of this order before the 4<sup>th</sup> respondents with all evidence and on receipt of such representation filed by the applicant the Respondent No.4 or any other competent authority shall consider and dispose of the same within a period of three months thereafter.



O.A. is disposed of accordingly. There will be no order as to costs.



(K.V.SACHIDANANDAN)  
VICE-CHAIRMAN

LM

OA (in 2+6 copies) is filed before the Administrative Tribunal.  
Advocate of 22 120 & envelope. To be posted on  
31-7-07. Date 30 JUL 2001

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

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

ORIGINAL APPLICATION NO. 202 OF 2007.

**Smti. Lakhi Naik alias Savitri Devi & Ors.**

### ... Applicants

**-Versus-**

The Union of India & Ors.

## Respondents

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Date: 26-07-2007.—

-----**Filed By:**

Smita Bhattacharya  
Advocate

R.T.I. of Smt. Lathe Naik  
@ Savitri Devi

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

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

ORIGINAL APPLICATION NO. 202 OF 2007.

Smti. Lakhi Naik alias Savitri Devi & Ors.

... Applicants

-Versus-

The Union of India & Ors.

... Respondents

**SYNOPSIS:**

The Applicant No.1 is the wife of Late Bheemu Naik, No.14117338, Ex. Permanent Mazdoor in the Office of the 50 Coy, ASC (Supply), Type-C, Pin-905050, C/o 99 APO. The Applicant Nos.2 to 7 are sons and daughters of Applicant No.1 and Late Bheemu Naik. Late Bheemu Naik expired on 10.07.1999 while he was serving under Respondent No.4. At the time of his death he was staying along with Applicant Nos.1 to 7. Applicant No.1 is the second wife of Late Bheemu Naik whom the deceased married after death of his first wife. From the first wife Late Bheemu Naik has one son, aged about 45 years (respondent No.6) and daughter, aged about 48 years (Respondent No.5). Both of them are married and well settled. Respondent Nos. 5 & 6 being major are not entitled to monthly family pension. While Late Bheemu Naik was working under the Respondent No.4, the Respondent No.4 issued Temporary Pass to the Applicant No.1 on 30.11.1991 showing her as wife of the deceased. After death of Bheemu Naik, Applicant No.1 applied before the Respondent No.4 for granting her Pensionary Benefits including Family Pension etc. However, the Office of the Respondent No.4 granted only Pensionary Benefits excluding Monthly Family Pension to the son of Bheemu Naik (respondent No.6), who was born from his first wife. The son of first wife shared the Pensionary Benefit with his step mother i.e. Applicant No.1. The Respondent No.3 vide their Office Order dated 22<sup>nd</sup> May 2007 rejected the claim of the Applicant No.1 for her Monthly Family Pension. Being aggrieved by this impugned order the Applicants filed this Original Application before this Hon'ble Tribunal for seeking justice in this matter.

Hence this Original Application.

R.T.I. of Smti. Lakhi Naik  
@ Savitri Devi

**FILED BY**

Smti. Lakhi Naik @ Savitri Devi  
Applicant No. 10  
Tikengh Smita Bhattacharjee  
(Advocate)

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

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

**ORIGINAL APPLICATION NO. 202 OF 2007.**

**BETWEEN**

- 1) Smti. Lakhi Naik alias  
Savitri Devi  
Wife of No.14117338  
P. T. Mazdoor  
Late Bheemu Naik  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/o Yamu  
Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.
- 2) Radha Naik  
Daughter of Smti. Lakhi Naik alias  
Savitri Devi  
C/o Yamu  
Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
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- 3) Shri Sanjay Nayak  
C/o Amit Grocery Shop  
Near Zimmi Studio  
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- 4) Shri Kunjo Nayak  
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- 5) Shri Pawan Nayak  
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C/o Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112.

...Applicants

-AND-

- 1) The Union of India represented by the Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi-110 001.
- 2) The Director General Supply Corps, Army Service Corps New Delhi Army Head Quarter New Delhi-11.
- 3) The General Officer Commanding-in-Chief H.Q.-Eastern Command Pin-908542 C/o 99 APO
- 4) The Commanding Officer, 50 Coy, ASC (Supply) Type-C, Pin-905050 C/o 99 APO.
- 5) Laxmi Naik  
Daughter of Late Bheemu Naik  
No.14117338  
P.T. Mazdoor  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/o Gopla Nayak  
Near Gas Agency  
Half Nagarjan  
Dimapur, Nagaland

6) Shri Dayanidhi Naik  
Son of Late Bheemu Naik  
No.14117338  
P.T. Mazdoor  
Office of the 50 Coy ASC  
(Supply) Type-C  
Pin-905050  
C/o Gopla Nayak  
Near Gas Agency  
Half Nagarjan  
Dimapur, Nagaland.

... Respondents

**DETAILS OF THE APPLICATION :**

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

This Application is made against the Impugned Rejection Order No.202768/18/A7 dated 22<sup>nd</sup> May 07 issued by the Respondent No.3, whereby claim of Applicant No.1 for Monthly Family Pension of her Late husband was rejected.

**2) JURISDICTION OF THE TRIBUNAL:**

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

**3) LIMITATION:**

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

**4) FACTS OF THE CASE:**

Facts of the case in brief are given below:

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

4.2) That your Applicant No.1 is the wife of Late Bheemu Naik, No.14117338, Ex. Permanent Mazdoor in the Office of the 50 Coy ASC (Supply) Type-C, Pin-905050, C/o 99 APO. Now she is aged about 56 years. The Applicant No.2 to 7 are the sons and daughters of Applicant No.1 and Late Bheemu Naik i.e. the husband of the Applicant No.1. The Applicant No.2 is aged about 35 years, The Applicant No.3 is aged about 30 years, The Applicant No.4 is aged about 25 years, The Applicant No.5 is aged about 23 years, The Applicant Nos.6 & 7 being minors (aged about 14 & 12 years respectively) are represented by the Applicant No.1.

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

4.4) That your Applicant No.1 begs to state that her husband Late Bheemu Naik had served as a Permanent Mazdoor No.14117338 under the Officer Commanding, 50 Coy, ASC (Supply), Type-C, Pin-905050, C/o 99 APO. Bheemu Naik expired on 10.07.1999, while he was serving under the Respondent No.4. At the time of his death he was staying along with the Applicant No.1 and their children i.e. Applicant No.2 to 7. It is worth to mention here that the Applicant No.1 is the second wife of Late Bheemu Naik. Bheemu Naik married to the Applicant No.1 after expiry of his first wife. From the first wife Late Bheemu Naik has one son and daughter. Both the son and daughter are married. They are well settled. The Respondent No.5 is the daughter of Late Bheemu Naik from this first wife. She is married and aged about 48 years. The Respondent No.6 is the son of Late Bheemu Naik from his first wife. He is aged about 45 years.

4.5) That your Applicant No.1 begs to state that the Office of the Respondent No.4 issued a Temporary Pass to the Applicant No.1 on

30.11.1981 vide Pass Ser No.32. In the aforesaid pass the passport photo of the Applicant No.1 is affixed with Official Seal of the Respondent No.4. In the body of the aforesaid pass it has been stated by the Office of the Respondent No.4 that Smti Savitri Devi i.e. the Applicant No.1 is the wife of No.14117338 Bheemu Naik, Permanent Mazdoor.

Photocopy of the Temporary Pass issued vide Pass Ser No.32 on 30.11.1981 is annexed hereunto and marked as **ANNEXURE-A**.

4.6) That your Applicant No.1 begs to state that after death of her husband Bheemu Naik on 10.07.99 she applied for Family Pension and other Pensionary Benefits before the Respondent No.4. However, the Respondent No.4 have granted the G.P.F. amount and other pensionary benefits of Late Bheemu Naik to the Respondent No.6 which is the son of Respondent No.4. The Respondent No.6 had shared the aforesaid amount with the Applicant No.1. The Respondent No.4 have not granted the monthly Family Pension to the Applicant No.1.

Photocopy of the G.P.F.-DS Statement of Late Bheemu Naik is annexed hereunto and marked as **ANNEXURE-B**.

4.7) That your Applicant No.1 begs to state that being aggrieved by the non-payment of monthly Family Pension she filed several Representations before the Respondent No.1 to 4 for immediate release of her Monthly Family Pension. Lastly on 01.04.2007 she filed another Representation before the Respondent No.2 for release of her Monthly Family Pension. The Office of the Respondent No.3 vide their letter No.202768/18/A7 dated 22<sup>nd</sup> May 2007 communicated her that "your case has been studied in details at this Headquarters. As per the inputs received from the unit, Late Bheemu Naik had made the nominations in the name of his son Dayanidhi Naik, hence all financial benefits have been accrued to his son. The same had been communicated to you by the unit in the year 1999. Pensionary benefits cannot be given to you unless you are a bonafide nominee". It is worth to

mention here that all along the Respondents had communicated with the Applicant No.1 as the wife of No.1417338 Pt. Mazdoor Late Bheemu Naik. As such the Applicants are compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

Photocopy of the Representation dated 08.12.1999 submitted by the Applicant No.1 before the Respondent No.4 is annexed hereunto and marked as **ANNEXURE-C**.

Photocopy of one of the envelope cover communicated to the Applicant by the Respondent is annexed hereunto and marked as **ANNEXURE-D**.

Photocopy of Representation dated 01.04.2007 submitted by the Applicant No.1 before the Respondent No.2 is annexed hereunto and marked as **ANNEXURE-E**.

Photocopy of letter No.202768/18/A7 dated 22<sup>nd</sup> May 2007 issued by the Respondent No.3 is annexed hereunto and marked as **ANNEXURE-F**.

4.8) That your applicant begs to state that the Respondent Authority has rejected the Representation of the Applicant No.1 in most mechanical, whimsical and arbitrary manner without application of proper mind. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed by this Hon'ble Tribunal.

4.9) That your Applicant No.1 begs to state that she is the legal wife of Late Bheemu Naik and Applicant No.2 to 7 are also the legal heir of Late Bheemu Naik. After death of first wife of Bheemu Naik, he married to the Applicant No.1 under Hindu rites and custom. The Respondent No.1 to 4 are also fully aware of the said facts and accordingly, they have issued, passes and other communication to the Applicant No.1 as wife of Late

Bheemu Naik till date each and every communication is made by the Respondents to the Applicant No.1 as the wife of Late Bheemu Naik, Permanent Mazdoor No.14117338 Supply Depot, ASC, Dimapur, Nagaland. The marriage of the Applicant No.1 with Late Bheemu Naik is legal marriage as the after the death of first wife of Bheemu Naik, the marriage was solemnized with the Applicant No.1 and the Applicant No.2 to 7 was born out of the said wedlock.

Under the Hindu Law the second marriage is a void marriage if the said marriage is solemnized during the lifetime of first wife or without divorcing first wife. In such void marriages the second wife is not entitled to get any share of family pension but the children born out of such void marriage are considered and recognized as legitimate children. On that ground also the Applicant No.2 to 7 are legitimate children of late Bheemu Naik. As such the Respondents cannot deny the monthly Family Pension to the Applicant No.1 and also to the Applicant No.2 to 7. The Hindu Succession Act of 1956 clearly recognized the status of the Applicant Nos. 2 to 7 as Class I legal Heirs along with the Respondent Nos. 5 and 6 even if the marriage of the Applicant No.1 was void marriage. The Respondent Nos. 5 and 6 are aged about 48 & 45 years respectively and they are married and both were well settled.

4.10) That your Applicants states and submits due to non payment of monthly Family Pension by the Respondents Authority they are passing their days with great financial hardship and finds it impossible to keep their body and soul together. As such, the act of Respondent No.1 to 4 in this respect is violative of the pension rules, administrative fair play and established procedures of law and practice. For such act the Respondent Authorities are liable to pay heavy compensation, interest and cost of the case.

4.11) That your Applicants submit that the Applicant No. 1, the second wife of late Bheemu Naik, who is presently aged about 56 years is suffering from old age ailment. Further, she has no other earning source to look after her children and herself after the death of her husband. As a result of such situation the Applicant No. 1 had to maintain her family by seeking personal

loans from relatives and friends and also through begging. Now, the family members of the Applicants are at the verge of starvation. Hence, it is a fit case whereas this Hon'ble Tribunal may be pleased to interfere immediately into the matter and by directing the Respondents to grant Provisional Family Pension to the Applicants.

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

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

4.14) That your Applicants submits that the Respondents Authority have violated the Principles of Natural Justice.

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

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

## **5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1) For that, due to the above reasons narrated in detailed the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.2) For that, the Respondent No. 3 had issued a Temporary Pass to the Applicant No. 1 on 30.11.1981 vide Pass Ser No. 32 with photo of the Applicant No. 1 affixed with the Official Seal of the Respondent No. 4. On the body of the Pass, it has been clearly stated by the Office of the Respondent no. 3 that Shrimati Savitri Devi is the wife of No. 14117338 P.T. Mazdoor, Bheemu Naik. Thus it is made clear that the Respondent Authority was well aware of the fact that the Applicant No. 1 is the wife of No. 14117338 P.T. Mazdoor Late Bheemu Naik. Hence the impugned

Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.3) For that, all along the Respondent Authority has communicated with the Applicant No. 1 as wife of No. 14117338 P.T. Mazdoor Late Bheemu Naik. Even the Rejection Order issued by the Office of the Respondent No. 3 vide his letter No. 202768/18/A7 dated 22<sup>nd</sup> May 2007, to the Applicant No. 1 was addressed with "Lakhi Naik, W/o No. 14117338 P.T. Mazdoor Late Bheemu Naik" which clearly shows that the Respondents recognized the Applicant No. 1 as the wife of the deceased Bheemu Naik. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.4) For that the Applicant No. 1 is the legally wedded wife of No. 14117338 P.T. Mazdoor Late Bheemu Naik as she was married to the deceased only after the death of his first wife. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.5) For that, even if the Marriage of the Applicant no. 1 to No. 14117338 P.T. Mazdoor Late Bheemu Naik is void marriage, then also the children born out of such void marriage are entitled to Family Pension as the Hindu Succession Act. 1956 clearly recognized the status of the Applicant No.2 to 7 as Class I legal heir along with the Respondent No. 5 and 6. Hence the Respondents particularly Respondent No. 4 cannot deny the legitimate claim of the Applicant No.2 to 7 to get share in the Family Pension of Late Bheemu Naik. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.6) For that, the Respondents particularly Respondent No.1 to 4 being a model employer cannot deprive the Applicants from their legitimate claim of family pension. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.7) For that, the action of the Respondents particularly Respondent No.1 to 4 for non-payment of Family Pension amount to the Applicants are

arbitrary, mala-fide and colourable exercise of power. The Respondent Authority rejection letter is not sustainable in the eyes of law. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.8) For that, the Respondents particularly Respondent No.1 to 4 have violated the Articles 14,16 & 21 of the Constitution of India. Hence the impugned Rejection Order No. 202768/18/A7 dated 22<sup>nd</sup> May 2007 is liable to be set aside and quashed.

5.9) For that, in any view of the matter the action of the Respondents particularly Respondent No.1 to 4 are not sustainable in the eye of law as well as facts.

The Applicants craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

#### **6. DETAILS OF REMEDIES EXHAUSTED:**

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

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

That the Applicants further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

#### **8. RELIEF SOUGHT FOR:**

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

and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents particularly Respondent Nos. 1 to 4 to pay the monthly Family Pension to the Applicant No.1 to 7 and also may be pleased to set aside the impugned Rejection Order 202768/18/A7 dated 22<sup>nd</sup> May 2007.

8.2) To Pass any other relief or relieves to which the Applicant No. 1 to 7 may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

#### **9. INTERIM ORDER PRAYED FOR:**

Pending the final disposal of the Original Applicant the Applicants most humbly pray before this Hon'ble Tribunal for grant of an Interim Order by directing the Respondent Authority i.e. Respondent No.1 to 4 to make payment of Provisional Pension to the Applicant Nos. 1 to 7. The Hon'ble Tribunal may be also pleased to pass any other appropriate relief or relief (s) as may deem fit and proper.

10. Application is filed through Advocate.

11. Particulars of I.P.O.:

I.P.O. No.	:	34 G 654296
Date of Issue	:	12 - 06 - 2007
Issued from	:	Guwahati G.P. O
Payable at	:	Guwahati.

12. LIST OF ENCLOSURES:

As stated above.

*Verification...*

VERIFICATION

I, Smti. Lakhi Naik alias Savitri Devi, Wife of No.14117338, P.T. Mazdoor, Late Bheemu Naik, Office of the 50 Coy ASC, (Supply) Type-C, Pin-905050, C/o Yamu, Amit Grocery Shop, Near Zimmi Studio, Army Supply Road, Dimapur, Nagaland, Pin-797 112 do hereby solemnly affirm and verify and states as follows :

1. That I am the Applicant No. 1 of this Original Application and as such I am acquainted with the facts and circumstances of the case and I am authorized by the other Applicants to verify this application.
2. That the statements made in paragraph Nos. 4.1 to 4.3, 4.8 to 4.16 \_\_\_\_\_ are true to my knowledge, those made in paragraph Nos. 4.4 to 4.7 ..... are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph No.5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this .....<sup>26<sup>th</sup></sup> day of July 2007 at Guwahati.



R. T. I of Smti Lakhi Naik  
@ Savitri Devi,

**DECLARANT**

2



TEMPORARY PASS	
Pass Issued No. 132	
Name of Soldier SINGH SINGH MELTRI DEMI 70. IN 11733	
Rank	ARM
Name	BHAGWAN SINGH
Age	30 years
Height 5 feet	
B Unit where the Government servant is serving	
Supply Depot DILAPUR	
Address	
Pass issued by	
O/S Supply Depot DILAPUR	
This pass is valid only for Dilapur City and its surrounding areas and not for any other places.	

**ATTESTED**

Shatto  
ADVOCAT

30 years

## ANNEXURE -- 3

वर्ष 1996-97 राज्य लाभनि. रेस्व. संखे का विवरण ब्याज को दर 12% प्रति वर्ष					GPF-DS STATEMENT OF ACCOUNTS FOR THE YEAR 1996-97 RATE OF INTEREST 12% PER ANNUM						
र. क्र. सं. CDA	यूनिट UNIT			नाम NAME				लेखा संख्या ACCOUNT NO.			
21	2015 50 CDY ASCI(SUP) TYPE D			BHIMU NAIK				568123N			
	अप्र० 04 APR 04	मई 05 MAY 05	जून 06 JUN 06	जूल० 07 JUL 07	आग० 08 AUG 08	सित० 09 SEP 09	अक्ट० 10 OCT 10	नव० 11 NOV 11	दिस० 12 DEC 12		
अमंत्रन SUB प्रतिवार REF IND	100	100	100	100	100	100	100	100	100		
वर्ष के दौरान निकासी का विवरण DETAILS OF WITHDRAWALS DURING THE YEAR											
मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	मा. प्रकृ. राशि MTN AMOUNT	आदि राशि OP BAL				
							37298				
सारांश SUMMARY					दकाया यदा हुआ ARR OF DA	दकाया वेतन ARR OF PAY	परि.वै.नियम-86 INCREASED Sub RPR 86				
अमंत्रन SUB	प्रतिवार REFD	निकासी WDL	ब्याज INTEREST								
चालू CURRENT दक्षया ARREAR	1200			4554							
शब्दों में अंत राशि CLOSING BALANCE IN WORDS											
RUPEES FORTY THREE THOUSAND FIFTY TWO. ONLY					अंश (प्रतिशत) SHARE (%)						
प्रथम नाम निदेशित / निदेशिते का नाम NAME OF FIRST NOMINEE(S)	DATE 28/07/97	DAYANIDHI			Rs. 100			र.क्षे. एवं नियंत्रक (निवि) /Dy. CDA (FUNDS)	43052		

ATTESTED  
B. Shalte  
ADVOCATE

23

Date : 8 Dec, 1990

CLAMANT. SMTI LAKHI GOUR NAYAK  
THE WIFE OF BHIMU NAYAK PT LABOURER  
UNDER 50 COY ASC SUPPLY DEPOT WHO  
EXPIRED ON 10-7-99: (CLAIM OF 2nd WIFE)

Sir,

Most respectfully I beg to state that I am the 2nd wife of Late Bhimul Nayak, Pt Labourer under 50 COY ASC Supply Depot, S/Ne who expired on 10-7-99 before retirement superannuation from his service and who left this widow and eight (8) children including one the eldest son of the former wife.

That a Letter addressed to the CDA (Passion) Allahabad copied to the CDA (Funds) Meerut and to the CO 50 ASC Supply Depot has already been submitted for Registration Post on 12-11-99 as claim of this Legal heir of Natural Justice, i.e. - the mother of (8) eight children the issues of husband Bhimul Nayak.

The Local Authority of 50 COY ASC Supply Depot has paid recently a sum of Re 2700/- (Two thousand seven hundred) only to the son Shri Dayanidhi. And Shri Dayanidhi has shown me a sum of Re 500/- (Five hundred) only. Even Kitchan.

I am now facing acute hardship after death of my husband Bhimul Nayak. So is the condition of double wives sneaker Govt Servants who suffer from food and cloth.

It is therefore, prayed that you would be kind enough to look into the matters stated herein above and do the needful by dividing two shares from the service benefits between two mothers, i.e. - mother of Shri Dayanidhi and this widow legal heir (claimant) and for this act of your kindness etc etc.

Copy to:

1. The Director General  
Directorate General of  
Supplies & Transport, GNGB  
New Delhi

2. The CDA (P)  
Allahabad

The CDA (B)  
Meerut

Yours faithfully,

RT/SP

Lakhi Gour Nayak  
(Smt LAKHI GOUR NAYAK)  
C/o Bhimul Nayak

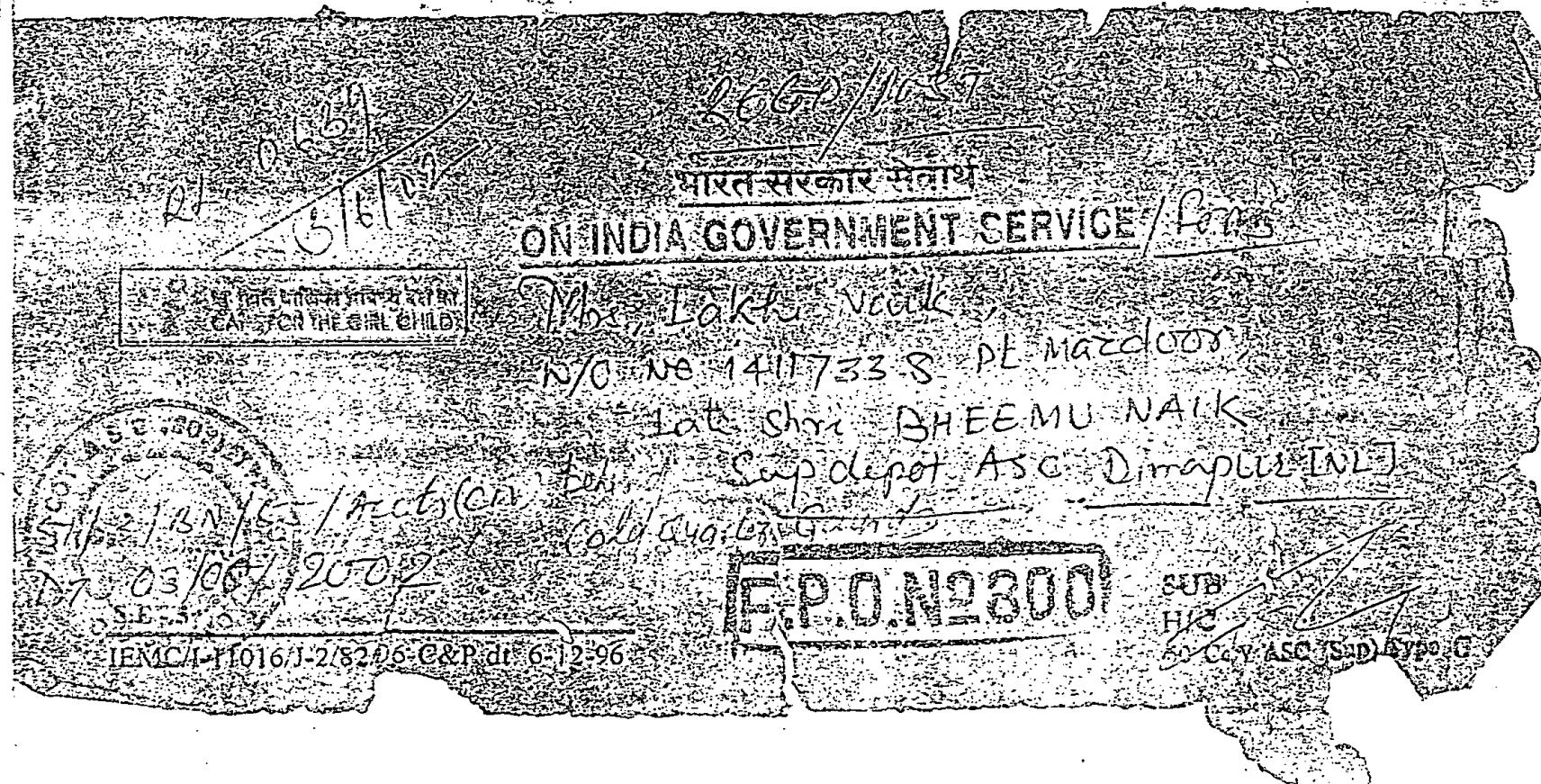
ATTESTED

Bhatte

ADVOCATE

for the widow.

## **ANNEXURE--D**



ATTESTED

Bhatter  
ADVOCATE

98

To

The Director General  
Supplies & Transport,  
Army Service Corps  
Army Headquarters  
New Delhi

• SUB:- PRAYER FOR RELEASE OF FAMILY PENSION

Respected Sir,

With most humbly & respectfully I, Lakhi Naik @ Savitri Devi w/o No. 14117338 pt Mazdoor (Late) Bheemu Naik, lay before your kind authority the following points for favour of kind consideration and necessary remedies:-

1. That my husband was working as Mazdoor under the establishment of 50 Coy ASC(Supply) Type C c/o 99 A.P.O. stationed at Dimapur, Nagaland till the date of his expiry on 10.07.99.
2. That I am the second wife of Late Bheemu Naik but was married to him only after the expiry of my husband's 1<sup>st</sup> wife and have 8 (eight) children including 1(one) son & 1(one) daughter from the 1<sup>st</sup> wife, both of them are married.
3. That when enquired for my family pension and other monetary benefits on the lapse of several months after the expiry of my husband, I was told that my name has not been recorded in the official documents though I was issued temporary pass vide Pass ser. no. 32 dt. 30.11.81 clearly showing me as wife of the Late Bheemu Naik with photo signed & sealed by an authority from office of the OC, 50 Coy ASC(Supply) Type C c/o 99 A.P.O. at Dimapur, Nagaland. (An attested copy of the pass is enclosed herewith). A joint photograph with my late husband is also enclosed herewith for favour of your kind reference & examination.
4. That all the monetary benefits due were paid to Shri Dayanidhi Naik i.e., the only son from my husband's 1<sup>st</sup> wife whose name was reported to be recorded in the official documents. Shri Dayanidhi Naik had shared some amount with me.
5. That I had written several letters for releasing of family pension to the concerned authorities but brought no fruit and was replied by the authority not to make infructuous correspondence and false claims vide their letter No. 51/3/BN/55/Accts(civ) dt. 30.05.2002. (A copy of the letter is enclosed herewith). The reply of the authorities have not given sufficient reason and stated that my application is infructuous. However I have not received any pension benefits after the death of my husband and my claims are genuine & therefore by no stretch of imagination my application can be treated as infructuous. Being the legal wife of my late husband I am entitled to get the pensionary benefits of my late husband & the same cannot be denied.

ATTESTED

*R. Shalte*  
ADVOCATE

6. That I have 8(eight) children including 1(one) son & 1(one) daughter from the 1<sup>st</sup> wife of my late husband, 4(four) of them are married and have their own family residing separately. Now, I am living together with another 2(two) sons and 2(two) daughters, both the 2(two) daughters are minor.

7. That sir, I have been facing a great financial hardships after the expiry of my husband bringing up my children.

May I therefore request your kind authority to look into the matter and take necessary steps at the earliest for release of family pension with effect from the date of expiry of my husband for which acts of your kindness I and my family shall ever remain grateful and obliged to you.

Dated:- 01-04-07

Yours faithfully



(R T I)

Enclos:- As stated above.

Copy for favour of kind & necessary action to:-

1. The General Officer Commanding-in-Chief  
H.Q. Eastern Command,  
Fort William, Kolkata  
Pin = 700 021

Lakhi Naik  
W/o No. 14117338  
pt Mazdoor Late Bheemu Naik  
c/o Yamu  
Amit Grocery Shop  
Near Zimmi Studio  
Army Supply Road, Dimapur  
Nagaland, Pin-797 112

2. The General Officer Commanding  
H.Q. 101 Area  
C/o 99 A.P.O.

3. The General Officer Commanding  
H.Q. 41 Sub Area  
c/o 99 A.P.O.

**ATTESTED**

*Abhatte*  
ADVOCATE

4. The Officer Commanding  
50 Coy ASC(Supply) Type C  
Pin = 905050  
c/o 99 A.P.O.

0/0

Tele: 2732

Headquarters  
Eastern Command  
PIN-908542  
C/O 99 APO

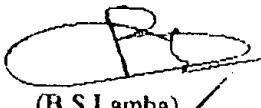
202768/18/A7

22 May 07

Lakhi Naik  
W/o No 14117338 Pt Mazdoor Late Bheemu Naik  
Amit Grocery Shop  
Near Zimji Studio  
Army Supply Raod, Dimapur  
Nagaland, PIN -797 112

**PAYMENT FOR RELEASE OF FAMILY PENSION**

1. Please refer to your application dt 01 Apr 07 addressed to GOC-in-C, Eastern Command.
2. Your case has been studied in details at this Headquarters. As per the inputs received from the unit, Late Bheemu Naik had made the nominations in the name of his son Davanidhi Naik, hence all financial benefits have been accrued to his son. The same had been communicated to you by the unit in the year 1999. Pensionary benefits cannot be given to you unless you are a bonafide nominee.
3. This is for your information please.

  
(B S Lamba)  
Lt Col  
AAG  
For COS

**ATTESTED**

  
Advocate