

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

9.7.2015

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : 163 / 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
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Applicant (S) : Srimati Bing Rani Das

Respondent (S) : Union of India & Ors.

Advocate for the : Mr. D.C. Chakraborty;
{Applicant (S)} Mr. R.S. Thakur & Mr. S.K. Singh.

Advocate for the : -----
{Respondent (S)} Rly. Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form is filed for Rs. 50/- deposited vide IPO/BD No. <u>395/420451</u> Date <u>20.8.09</u></p> <p><u>21.8.09</u> 4 (Four) copies of Application with envelopes received for issue notices to the Respondents No 2 to 4. Copy served.</p> <p><u>21/8/09</u> K. Das Issue notice to the Respondents and also send copies of this order to the Respondents along with notices and free copy to the Applicant and advocates both the parties.</p>	<p>25.08.2009</p>	<p>Issue notice to the Respondents requiring them to file their reply by 09.10.2009.</p> <p>Pendency of this case shall not stand on the way of the Respondents to reconsider the case of the Applicant by taking into consideration the representations submitted by the Applicant under Annexure-6 series of the O.A.</p> <p>Send copies of this order to the Respondents (along with notices) and free copies of this order be also supplied to the Applicant and the Advocates appearing for the parties.</p>
<p><u>26/8/09</u></p>	<p>(M.K. Chaturvedi) Member(A)</p>	<p>(M.R. Mohanty) Vice-Chairman</p>

Copies of notices
along with order
dated 25/8/09 send
to D/Sec. for issuing
to resp. by regd.
A/D post.

Free copies of
this order issuing
to applicant and
4/counsel for
respondents.

2/9/09. D/No-9944-9947
9928-9930
D/- 2.9.09

Service report awaited
on
8/10/09

09.10.2009

Mr.D.C.Chakraborty, learned counsel for the Applicant is present. No written statement has yet been filed by the Respondents.

Call this matter on 26.11.2009 awaiting written statement from the Respondents.

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

(M.R.Mohanty)
Vice-Chairman

/bb/

26.11.2009

Written statement have to be filed. Learned counsel for the applicant asked for three weeks time to file written statement.

List this case for hearing on 21st December, 2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

26.11.2009

Written statement have to be filed. Learned counsel for the applicant asked for three weeks time to file written statement.

List this case for hearing on 21st December, 2009.

(Madan Kumar Chaturvedi)
Member (A)

/pb/

K-Das
Send copy of this order to the Applicant and the Respondents.

12/10/09

12/10/09
S.S. B. Devi, Rly Counsel
for Vakalatnama,
12/10/09

No w/s filed.

25.11.09

21-11-09
No w/s filed

21.12.2009

Written statement is filed to-day. List the matter on 28.1.2010 enabling the Applicant to file rejoinder.

(Madan Kumar Chaturvedi)
Member (A)

Copies of order dated 9/10/2009 send to D/Sec. for issuing to the respondents by post.

/lm/

D No - 12582-12585

D No - 12582-12585

28.1.2010

This T.A. has been received from the Hon'ble Gauhati High Court. On transfer as T.A. the jurisdiction for Brahmaputra Board has been conferred this Tribunal. Mr. G.I. Ahmed, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing

Issue Notice
R. No. 2

14.12.03

21.12.2009

28.1.2010

Learned counsel for the Applicant states that rejoinder is being filed during the course of the day and copy of the same will be served on the learned counsel for the Respondents.

In this circumstances, pleadings should be complete, admit.

Subject to legal exception, if any.

List the matter for hearing on 25.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

27.1.2010

Rejoinder
filed. Copy not sent.

29.1.2010

The case is ready
for hearing.

24.2.2010


O.A. No. 163 of 2009

25.02.2010

It has been stated that rejoinder was served only on 24th February 2010 though it was filed earlier.

Mrs. B. Devi, Railway counsel seeks one week time to peruse and to react.

Adjourned to 12th March 2010.


(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

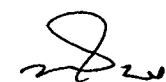
/pb/

12.03.2010

Applicant in present O.A challenges communication dated 11.1.07 (wrongly mentioned as 11.7.07) (Annexure-V) whereby her request for appointing her son on compassionate basis has been declined stating that "since you had already been offered appointment on comp ground and joined as SFLA", question of considering request in favour of son did not arise. Vide representation dated 3.5.07 (Annexure-VI) applicant in specific stated that "I did not join and work and no salary drawn by me and I did not attend in H.MI/D Office."

On the other hand by filing reply respondents have placed strong reliance on Annexure-B communication dated 13.6.94. I have heard both sides and perused the said document. Annexure-B appended to the reply is only a communication from one official to another official stating that the applicant joined her duty on 13.6.94. No joining report of the applicant has been placed on record. In the circumstances the respondents are directed to produce applicant's joining report, as suggested vide Annexure-B communication dated 13.6.94 in order to determine as to whether applicant indeed had joined or not.

List on 30.3.2010 for further hearing. It is made clear that no further adjournment will be allowed to the respondents.


(Mukesh Kr. Gupta)
MEMBER (J)

*The case is ready
for hearing.*

23
11.3.2010

*The case is ready
for hearing.*

23
23.3.2010

O.A. No. 163/2009

30.03.2010

Learned counsel for Respondents

Mrs. B. Devi, states that perusal of Applicant's statement, recorded during certain other proceedings, implied that she had joined the concerned post on compassionate basis as substitute Sanitary Cleaner. She candidly admitted that no joining report is available on record. Let specific affidavit be filed by Respondents with copy to the Applicant.

List on 29th April 2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

O.A. No. 68 of 2009

29.04.2010

On the request of proxy counsel for Applicant case is adjourned to 20th May 2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/lm/

29.04.2010

Proxy counsel for Respondents prays for adjournment, which has not been objected by Mr. D.C. Chakraborty, learned counsel for Applicant.

List on 12th May 2010.

The case is ready for hearing.

[Signature]
11.5.2010

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

[Signature]
(Mukesh Kumar Gupta)
Member (J)

/lm/

12.05.2010

Heard Mr. D.C. Chakraborty, learned counsel for Applicant and Ms. B. Devi, learned counsel for Railways.

Hearing concluded. Reserved for orders.

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

/pb/

14.05.2010

Judgment pronounced in open court, kept in separate sheets.

The O.A. is dismissed in terms of said order.

[Signature]
(Madan Kumar Chaturvedi)
Member (A)

/pb/

Received copy
order dated
14/5/10

For stamp & Thakur
for applicant
01/6/10

24-6-2010

Judgment/Final order dated
14/5/2010 prepared and sent
to the S/Section for issuing to
respondents by post.
vide No — 1383 to 1385
dated — 25-6-2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 163 of 2009 with M.P.139/2009

DATE OF DECISION: 14.05.2010

Srimati Bina Rani Das

.....Applicant/s.

Mr.D.C.Chakraborty

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Ms. B.Devi, Railway counsel

.....Advocate for the
Respondents

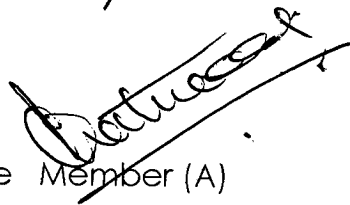
CORAM

THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

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

Judgment delivered by

Hon'ble Member (A)



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 163 of 2009
and

Misc. Application No. 139 of 2009

Date of Decision: This, the 4th day of May, 2010.

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Srimati Bina Rani Das
Wife of late Anil Ch. Das
Biscuit Factory, Gobindabari Road
P.O: Bokajan, PIN: 782 480
Dist: Karbi Anglong (Assam).

...Applicant

By Advocate: Mr.D.C.Chakraborty

-Versus-

1. The General Manager
North East Frontier Railway
Maligaon, Guwahati -11.
2. The Divisional Railway Manager (P)
Lumding Division, N.F.Railway
P.O: Lumding, Nagaon
Assam, PIN: 782 447.
3. The Chief/Senior Labour Welfare Inspector
Lumding Division
N.F.Railway, Lumding
PIN: 782 447.

... Respondents

By Advocate: Ms. B.Devi, Railway counsel.

ORDER

MADAN KUMAR CHATURVEDI, MEMBER (A):

At the outset, respondent no.3 makes a prayer for deleting the name of Respondent No.1 from the list of respondents arrayed in O.A. No.163/2009, vide M.P. No.139/2009.



Considering the facts and circumstances set forth in the M.P. I am inclined to accept the request made by respondent No.3. Accordingly, name of the Secretary to the Government of India, Ministry of Railway, Rail Bhawan, New Delhi-110 001 in the instant O.A.163/2009 is deleted.

2. By this O.A. applicant makes a prayer to issue direction to the respondent authorities for appointment in service on compassionate ground to her son Sri Swapan Das.

3. Applicant is the widow of Late Anil Ch. Das, Ex-gangman under PWI/BXP who expired on 05.12.1990. The Applicant was nominated for appointment on compassionate ground and was offered appointment as Substitute Sanitary Cleaner (Safaiwala) as per Office Order of DRM(P), Lumding dated 25.05.1994 for three months at the first instance and thereafter she was to be allowed to continue further depending on her performance. She was directed to report to CMS, Lumding for her medical fitness and for further report. On being found medically fit, she was posted as Substitute F/Safaiwala under H&MI/DMV vide Sr.DMO, Lumding's office letter memo No.E/227/1/LM/(Med) dated 07.06.1994. As per records, she joined her duty as such on 13.06.1994, which was intimated to DRM(P)/Med/Lumding by the H&MI/DMV vide his letter under Memo No.DMV/EST/1 dated 13.06.1994. Thereafter she submitted application for appointment on compassionate ground to her son, which was registered on 24.05.1995. Being a minor case, it was intimated to the applicant.

4. Applicant remained absent from duty w.e.f. 14.06.1994 without intimation to the authority concerned. The H&MI/DMV/N.F.Railway informed the applicant's unauthorized absence from duty vide his letter Memo No.DMV/EST/1 dated 04.07.1994. As a consequence of applicant's unauthorized absence from duty she was removed from service w.e.f. 01.11.1006 vide Sr.DMO/LMG's NIP No. PC/BRD dated 12.11.1996.

5. In reply to the prayer for appointment of applicant's son Sri Swapan Das on compassionate ground, the DRM, N.F.Railway, Lumding vide letter dated 11.01.2007 informed her as under:-

'Sub: Prayer for appointment of Shri Swapan Das on comp. ground.

Ref: Your application dt.16.5.06.

With reference to the above it is to inform you that since you had already been offered appointment on compassionate and joined as SFLA under the H&MI/DMV on 13.6.94 on account of death of your husband, the question of CGA of your son Shri Swapan Das on the same account does not arise.

S/- Illegible

11.1.07

Divn.Rly.Manager
N.F.Rly.Lumding"

6. In the case of **Eastern Coalfields Ltd., vs. Anil Badyakar & Ors., 2009 (4) SLR 568 (SC)**, it was held that compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over. Compassionate appointment is exception to general rule. There is a limited quota for such appointment

and various norms are laid down in making such appointment. It cannot be claimed as a matter of right.

7. In the facts of the present case, I find that since applicant was offered appointment on compassionate ground on account of demise of her husband during service, therefore, there exists no good reason for offering appointment to her son Sri Swapan Das on the same account. As such, O.A. is devoid of merits and deserves dismissal.

8. M.P. stands allowed, O.A. stands dismissed. No cost.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)

/BB/

Filed by:
 R.R. Bora
 Adv. 6/4/10
 12/05/10

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

O.A. No. 163 of 2009

Srimati Bina Rani Das
 Applicant
 -Vs-
 Union of India & others
 Respondents.

AFFIDAVIT

I, Sri. AMBESWAR SAIKIA S/O LATE CHANDRA SAIKIA aged about 55 years, resident of LUMDING, DISTT - NOWGAON at present working as the SENIOR DIVISIONAL PERSONNEL OFFICER / LUMDING, NF RAJIB being competent and duly authorized to swear this affidavit on behalf of all other Respondents do hereby solemnly affirm and state as follows :-

1. That having been selected for appointment on compassionate ground in Class IV post and being found medically fit the applicant was posted as Substitute F/Safaiwala under Health & Malaria Inspector vide Sr. DMO/LMG's appointment order dated 7.6.1994.
2. That in terms of the aforesaid order, although no formal letter of joining was submitted, the applicant joined and discharged her duty as female Safaiwala on 13.6.94.
3. That the applicant remained absent w.e.f. 14.6.94 without any intimation to the authority concerned for which DAR enquiry was conducted against the applicant by issuing Major memorandum of Charge sheet No. PC/B.R.D. dated 30.1.95.

4. That enquiry was conducted by the Inquiry Officer Sri K. K. Das (DMO/LMG) on 12.7.95. The applicant had submitted her written reply on 12.7.95 and as a consequence the applicant's unauthorised absence from duty w.e.f. 14.6.94 was proved and she was removed from service w.e.f. 1.11.96 vide Sr. DME/LMG order dated 12.11.96.

5. That the applicant in her reply to DAR enquiry dated 12.7.95 categorically admitted that she could not attend in her proper duty from 14.6.94 to 12.7.95 for her self suffering asthma for long days. From the above facts it transpired that the applicant joined her duty as Female Safaiwala on 13.4.94 and she had been absent subsequently from her duty unauthorisedly w.e.f. 14.6.94.

A copy of the reply letter of the applicant dated 12.7.95 to DAR enquiry is enclosed herewith and marked as Annexure- I

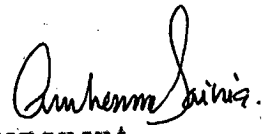
6. That it is absolutely false and baseless contention of the applicant that she did not join in her service due to her ill health.

7. That the statements made in this affidavit and in paragraphs 1,2,3,4 & 5 are true to my knowledge and belief and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit on this 16/16 day of May, 2010 at LUMDING

Identified by

R/A, Guwahati.


Deponent.
 দেবী অংশুমান সার্মা (কালিমা)
 পূ. জি. দেবী, কামাখ্যা
 or Divl. Rly: Manager (F
 N.F. Rly: Lumding

To

DR. K.K. DAS

Enquiry officer
DMF Lending
N.F.R.

FN-26

16

Sub-DAR for Mother's
absent from duty W & F
24-6-94 to 12-7-95

Sir With due respect I beg to
state that I could not
attend in my proper duty
W & F 24-6-94 to 12-7-95
because my self suffering
from asthma for long days
So please consider my case

Date
12/7/95

Recd on 12/7/95
at 11/00 AM
ke 12/7/95

yours faithfully

Asd Binod Kumar
Asst Secy to the
Govt of India
Under P.W. / B.X.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI.

ORIGINAL APPLICATION NO. 163 of 2009.

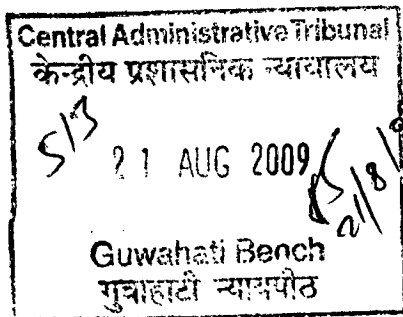
Srimati Bina Rani Das.

...Applicant.

-Vs-

The Union of India & Ors.

...Respondent.



SYNOPSIS.

This original application is filed by the applicant for the direction to the respondents for appointment on compassionate ground service.

The applicant is the widow of late Anil Ch. Das, Ex. Gangman under PWI/BXP/and expired on 5.12.1990 during his service time in the central Hospital, Maligao. The applicant was nominated for appointment on compassionate ground and offered the applicant to join as the Railway. But she was unable to work due to ill health and she did not join. The applicant prayed to appoint her son Sri Swapan Das. The application was accepted and considered by DRM(P)Lumding on 25.4.95. on 16.5.2006, the applicant applied for appointment compassionate ground of her son Sri Swapan Das. On 11.1.07, ~~the~~ one letter issued by DRM/(P)Lumding stated that the applicant had already been offered appointment on compassionate ground, the question of compassionate ground appointment of your son Sri Swapan Das on the same account does not arise. Hence, the present application.

Filed by

[Signature]
21/8/09
Advocate.

Filed by 23
Rama Shankar Thakur
Advocate
21-8-2009

LIST OF DATE.

- 05.12.1990 —
- 25.5.1994 The applicant had nominated for appointment on compassionate ground and offered to the applicant to join as SFLA under H&MI/DMV(Annx.I).(Pg-11)
- 25.4.1995. The applicant's application had been considered and accepted by DRM(P)Lunding and stated that change of nomination in favour of your son Sri.Swapan Das(Annx.II)(Pg-12)
- 16.5.2006. The applicant applied for appointment on compassionate ground of the applicant son Sri Swapan Das (Annx.III). Pg-13
- 9.6.2006. The Office letter issued by Chief and Senior Labour Welfare Inspector ,DRM(P)Lunding and stated that to submit necessary papers of Sri Swapan Das(Annx.IV). Pg-14,15
- 11.1.2007. Impugned order issued by DRM(P)Lunding and rejected the appointment on compassionate ground service (Annx.V) Pg-16
- 03.05.2007 The applicant submitted the representation before the DRM(P)Lunding ,N.F.Rly. Pg (Annx- VI, Pg-17,18)
- 09.1.2008 The applicant submitted the representation before the DRM(P)Lunding ,N.F.Rly. (Annx- VI-A, Pg-19,20)
- 01.08.2008. The applicant submitted the representation before the DRM(P)Lunding ,N.F.Rly. (Annx- VI-B, Pg-21)
- 02.3.2009. The applicant submitted the representation before the General Manager,Maligaon and DRM(P)Lunding. (Annx- VI-C, Pg-23)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Bench
গুৱাহাটী ন্যায়ালয়

Filed by
[Signature]
Advocate. 21/8/09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI.

ORIGINAL APPLICATION/NO.....of 2009.

Srimati Bina Rani Das,

...Applicant.

-Vs -

The Union of India & Ors.

...Respondent.

I N D E X.

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5.	Annexure-III.	13
6.	Annexure-IV.	14-15
7.	Annexure-V.	16
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Filed by

R. S. Haku

Advocate.

21/8/09

29
Filed by
Rang Shankar Thakur
Advocate
01-21-08-2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
AT GUWAHATI.

(An Application under Section 19 of the Administrative
Tribunal Act, 1985).

O.A.No. 163 . . /2009.

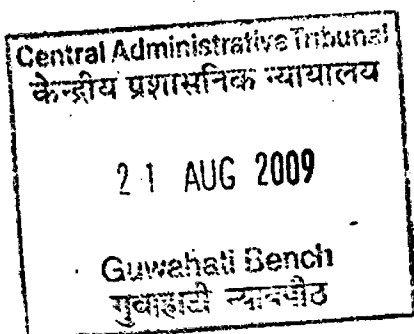
Srimati BINA RANI DAS,
wife of late Anil Ch. Das,
Biscuit Factory, Gobindabari Road,
P.O. Bokajan. Pin- 782480
Dist. Karbi Anglong (Assam).

...Applicant.

- Vs -

1. The Union of India,
represented by the Secretary,
to the Govt. of India.
Ministry of Railway, New Delhi-11001
Rail Bhavan.
2. The General Manager,
North East Frontier Railway,
Maligaon, Guwahati-11.
3. The Divisional Railway Manager(P),
Lumding Division,
N.F. Railway,
P.O. Lumding, Nagaon (Assam). Pin. 782447
4. The Chief/Senior Labour Welfare
Inspector.
Lumding Division.
N.F. Railway, Lumding.
Pin- 782447

...Respondents.



filed by
Shankar Mohan
Advocate
Rama
21-8-09
30
RTI of
Srimati Bina Rani Das

31 RTI of
Sri Swapan Das

- 2 -

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

The instant application is filed against the impugned action on the part of the respondents is not appointment the applicant's son Shri Swapan Das on compassionate ground.

I am the widow of late Anil Ch. Das, Ex. Gangman under PWI/BXP and expired on 5.12.1990 during his service time in the Railway Central Hospital, Maligaon. The applicant was nominated for appointment on compassionate ground and offered the applicant to join as SFLA under H&MI/DMV. But she was unable to work due to ill health and the applicant did not join.

The applicant prayed to appoint her son Shri Swapan Das when he will attain at the age of 18 years. The applicant's application considered by DRM/P/LMG vide his letter No. E/227/LM/Comp/W/Pt. XXXIV dated 24.12.94 and on 25.4.95 has informed the applicant that change of nomination in favour of your son Sri Swapan Das is accepted by DRM/P/for registration on compassionate ground when the applicant's son reached at the 18 years on 16.5.06. My client applied for appointment on compassionate ground of her son Sri Swapan Das. On 11.1.07 one bearing No. E/227/Misc/LM/Comp(W)Pt. I issued by DRM(P) Lumding addressing to my applicant that since you had already been offered appointment on compassionate ground on account of death of your husband, the question of (CGA) Compassionate ground appointment of your son Sri Swapan Das on the same account does not arise.

The applicant submitted representation (application) on ~~02~~ 2.3.09 before the DRM(P) Lumding and G.M.N.F. Rly. Maligaon. Praying the respondents authority to consider

32
RTI
Sajjan Das

- 3 -

consider appointment on compassionate ground. The impugned letter dated 11.01.07 by which the said respondent as pleased to reject the representation filed by the applicant and hence the present application.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declare that the subject matter of instant application is with the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further declare that the instant application is filed within the Limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

(i) The applicant is a Citizen of India and permanent resident of Gobindabari Road, near Biscuit Factory, P.O. Bokajan, in the district of Karbi Anglong, Assam as such he is entitled to all rights and privileges as guaranteed under the Constitution of India and the laws of the land.

(ii) The applicant is the widow of late Anil Chandra Das, Ex. Gangman under PWD/BXP and expired on 05.12.1990 at the Central Hospital, Maligaon during his service time.

(iii) The applicant had nominated for appointment on compassionate ground and offered to my applicant to join as SELA under H&MI/DMV. on 25.5.94 by DRM(P)/N.F.Rly. Lunding.

A copy of the appointment on compassionate grounds

grounds on 25.5.1994 is enclosed herewith as marked as Annexure-I.

iv) The applicant begs to state that the applicant was suffering from Asthma for long period and she was not in a position to serve in the Railway and unable to work due to ill health and the applicant did not join in the service.

v) That, the applicant begs to state that applicant prayed on 24.12.94 before the Divisional Railway Manager(P) Lumding to appoint the applicant's son Sri Swapan Das (then he was 10 years) when ~~the~~ he will attend at the age of 18 years.

vi) That, the applicant begs to state that the applicant's application has been considered by DRM/P/LMG vide letter No.E/227/LM/Comp/W/PI XXXVI, dated 25.4.1995 has informed the applicant that change of nomination in favour of your son Sri Swapan Das is accepted by DRM/P/LM^g for registration on compassionate ground appointment from the date of approval.

A copy of the office letter from DRM/P/N.F.Rly/Lumding dated 25.4.1995 enclosed herewith as marked as Annexure-II.

vii) That, the applicant begs to state that when the applicant's son reached at the age of 18 years. On 16.5.06, the applicant applied before the DPO at Lumding, Lumding Division, N.F. Railway for appointment on compassionate ground service of the applicant son Sri Swapan Das.

A copy of the application prayer for appointment Sri Swapan Das on compassionate ground on 16.5.06 is enclosed herewith as marked as Annexure-III.

31/8/09
Smt. Binu Rani Das

- 5 -

viii) That, the applicant begs to state that the applicant has received a letter from DRM/P/LMG vide letter No.E/227/Eng/Comp/W/ dated 09.6.2006 by Sri.Chandan Chakraborty PI/III/LMG Chief and Senior Labour Welfare Inspector stated that to submit detailed report with necessary papers of Sri Swapan Das, son of late Anil Ch.Das, Ex.Gangman under PWI/BXP.

A copy of the letter issued by the Chief and Senior Labour Welfare Inspector, DRM(P)Lunding dated 09.06.2006 is enclosed herewith as marked as Annexure-IV.

ix) That, the applicant begs to state that the applicant has submitted IX passed School Certificate to her son and death certificate of her husband and related all documents for appointment on compassionate ground.

x) That, the applicant begs to state that one letter from DRM/P/LMG vide his letter No.E/227/MISC/LM/Com(W)/Pt.I dated 11.1.07 stating that as I was offered for appointment on compassionate ground as SELA and joined on 13.6.94 under 4 RMI/DMV, so question of compassionate ground appointment of your son Sri Swapan Das does not arise.

A copy of impugned order dated 11.1.07 issued by DRM/P/LMG/N.F.Rly. enclosed herewith as Annexure-V.

xi) That, the applicant begs to state that the applicant after receipt of the impugned order dated 11.01.2007, the applicant was very much shocked and surprised. The applicant after submitted the representation before the DRM(P)Lunding and the General Manager, Maligaon, N.F. Railway, Guwahati - on 03.05.2007, 09.01.08 and 01.8.08 and 02.3.2009 with hop-

21 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ33- RTI of
Sri Swapan Das

- 6a -

hopeful that her case will be duly considered by the respondent authorities but rejection of the representations submitted by the applicant.

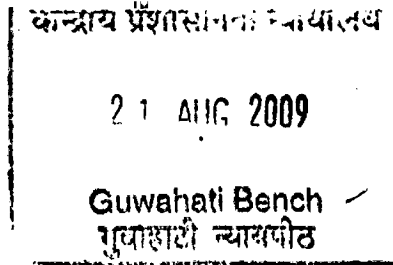
A copy of representation dated 03.05.2007, 09.1.2008, 1.8.2008 and 02.3.2009 are annexed herewith as Annexure-VI, VIA, VIB & VIC.

xii) That, the applicant begs to state that the Railway Authority DRM/P/LMG/has accepted the change of nomination and Sri Swapan Das has been registered for compassionate ground appointment but now he has been regretted by DRM/P/LMG for compassionate ground appointment ignoring the DRM's acceptance order dated 25.4.1995.

xiii) That, the applicant begs to state that the respondent authority (DRM/P/LMG/while passing impugned order dated 11.1.07 did not apply his mind and whimsically passed the aforesaid impugned order. Therefore, the applicant approached the Hon'ble Tribunal for redressal of his jurisdiction.

GROUND FOR RELIEF WITH LEGAL PROVISION:

1. For that the applicant was nominated for appointment on compassionate ground, but the applicant was suffering from Asthma for long period and she did not join. So the applicant was not in a position to serve in the Railway and she prayed to appoint her son Sri Swapan Das.
2. For that the applicant's application considered/accepted by DRM/P/LMG/vide letter No.E/227/LM/Comp/W/PI XXXVI dated 25.4.1995 has informed the applicant that change of nomination in favour of your son Sri Swapan ~~xxxx~~ Das. A copy of the Office letter from DRM/P/N.F.Rly.Lumding dt.25.4.1995 inclosed as Annexure-II.



36

RTI of
Bing Ravi Das
Sri Swati

III) For that Railway authority DRM/P/LMG has accepted the change of nomination and Shri Swapan Das has been registered for compassionate ground appointment, but now he has been regretted by DRM/P/LMG for compassionate ground appointment ignoring the DRM's acceptance order dated 25.4.1995.

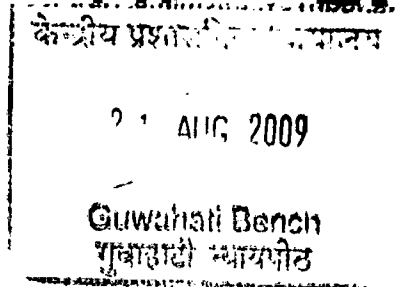
IV) For that the applicant submitted several representation before the DRM/P/LMG but the Rly authority did not consider for compassionate ground appointment the applicant's son Sri Swapan Das, and as such your Lordship's would be pleased to set aside and quash the impugned order dated 11.01.07.

V) For that the respondent authorities failed take into account that the applicant came from a very poor family and she lost her husband left behind young son and daughter and as such the Hon'ble Court may be pleased to direct the respondent to immediately appointment on compassionate ground service to the applicant's son Sri Swapan Das.

VI) For that the respondent authority did not consider the applicant case and the applicant has not any defect and as such the respondent authority (DRM/P/LMG) acted illegally in passing the impugned order dated 11.1.07 and the impugned decision taken in this regard is bad in law and liable to be set aside and quash.

6. DETAILS OF REMEDIES EXHAUSTED:

That, the applicant declared that she has not other alternative remedy then to come under to protective hands of this Hon'ble Tribunal.



33 RTI of
Srimati Bina Rani Das

MATTERS NOT PREVIOUSLY FILED OR PENDING
BEFORE ANY COURT OF TRIBUNAL.

The humble applicant further declare that the subject matter against which the applicant seeks remedy ~~xxx~~ is not pending any Court of Tribunal.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicant humbly most respectfully prays that the instant application be admitted, relevant records be called for and upon hearing the parties, or the cause or causes that may be shown, be pleased to grant the following reliefs to the application:-

i) To set aside and quash the impugned letter dated 11.7.2007 issued to the applicant vide his letter No. H/227/Misc/LM/Comp(W)Pt.I by the Divisional Railway Manager(P) Lunding, N.F.Rly.

ii) To direct the respondent authorities immediately appointment on compassionate ground service to the applicant's son Sri Swapan Das.

iii) Cost of the application and/or.

iv) Any other reliefs to which the applicant is entitled under the facts and circumstances of the case and as may be deem fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

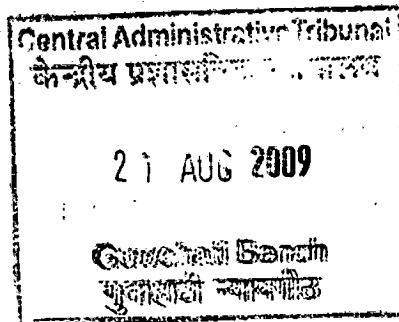
Pending disposal of the instant application the applicant

applicant prays for an interim order directing the respondent authority to appointment on compassionate ground service the applicant son Sri Swapan Das and/or pass such further order/orders as this Hon'ble Tribunal deem fit and proper.

10...

11. INDIAN POSTAL ORDER NO...396 420451 dated 20-8-09

dated for Rs.50/-(Rupees fifty)only payable at Guwahati in favour of the Registrar, Central Administrative Tribunal, Guwahati.



Verification.

02
Sainati Bina Razi Das. RTI of

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

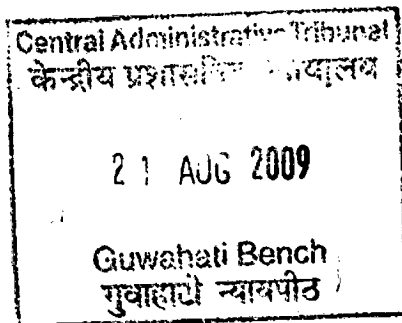
I, Smti Bina Rani Das, wife of late Anil Chandra Das, resident of Gobinda Bari Road, Biscuit factory, P.O. & P.S. Bokajan, Dist. Karbi Anglong, Assam to solemnly hereby affirm and declare as follows:-

That I am the applicant in the accompanying application and I do hereby verify and state that the statements made there in are true to the best of my knowledge, belief and information.

And I sign this Verification on this 21st day of August, 2009 at Guwahati.


Signature.

RTI of Smti
Bina Rani Das



- 11 -

Regd Post with H/D ANNEXURE I

40

NORTHEAST FRONTIER RAILWAY.

OFFICE ORDER

No. E/227/22/LM/Comp. (W).

OFFICE OF THE
D. R. M. (P)/NFR/LMG.

Dated. 25-5-1994.

To: Smti Bina Rani Das,
W/o Mr. Anil Ch. Das,
Ex. Gangman under Pw/BXP.

Sub:- Appointment on compassionate grounds
as Safaiwala as per your option.

You are considered for appointment as Substitute Sanitary Cleaner on your option for the post of Sanitary cleaner (Safaiwala). Your appointment as Substitute Sanitary cleaner will be for three months at the first instance and you will be allowed to continue further only if your work is found to be satisfactory. You are hereby directed to report to CMS/LMG for your further orders.

This has the approval of competent authority duly relaxed
age bar (over aged)

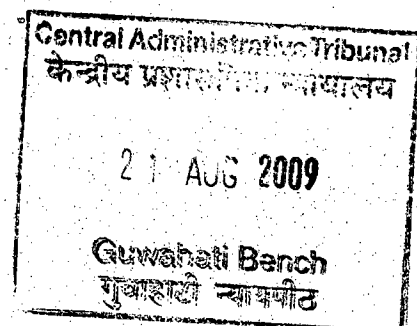
for D. R. M. (P)/NFR/LMG
LUMDING.

Copy to: OS/E/Mod (LMG) for information and necessary action please. The candidate should be kept under observation for 3(three) months and thereafter her service will be regularised subject to her performance being found satisfactory. The performance report to be sent to this office duly certified by the respective Subordinate Incharge immediately on completion of three months and countersigned by MS/CMS.

Encls - One Medical Certificate
No. 293/94, Two Character
Certificate, One School leaving
Certificate, showing the
date of birth 07/07/62
One photograph.

for D. R. M. (P)/N.F. RLY.
LUMDING.

(NGR141093)



certified to be
true copy
Ranga Shankar Thakur,
Advocate.

- 12 -

ANNEXURE II

M.F. Railway.

No. E/227/1/LM/Comp. (W) P+. XXXVI

Office of the
D.R.M. (P)/NFR/Lumding.

Dt. 23/4 1995

To: Brina Rani Das Wolati Aril. Ch. Das, Esq. G/wan
Smt. under PWD/BXP G.D. Shri Midan. Ch. Das, Bismit Factor
Gobindabari Road P.O. Bokajan Dist. Karbianglong
(Assam)

Sub:- Change of nomination in reference to your
representation dated 21/4/94 for Comp.
appointment.

Dear Madam,

It is to inform you that change of nomination in favour
of your son Shri Swapan Das is accepted by DRM
for registration on Compassionate ground appointment from the date
of approval.

Yours faithfully,

Am 25/4
for D.R.M. (P)/N.F.R.LY.
Lumding.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

certified to be
true copy
Rang Shyams Thakur
Advocate.

To,

The Divisional Personal Officer I/C.
N.F. Railway Lunding.

Dated Bokajan
the 16.5.06

(Through SSE/P.WAY/BXP/LMG)

Sub :- Prayer for Appointment of Shri Swapn Das
on compassionate ground.

Sir,

I the widow of late Anil Das Ex. Gangman under SSE/
P.WAY/BXP beg to inform you that my husband expired on ~~24/5/2004~~ 24/5/2004
in the Central Hospital Maligaon (Death Certificate attached).
Then my Son Shri Swapn Das was minor. I applied for appoint of
my son when he will reach 18 (Eighteen) years (Photo copy enclosed).

Now my son aged of 18 (Eighteen) years. His date of
Birth is 20/07/1987. His present age is 18 years 4 Months as on
20/01/2006. (School Certificate enclosed herewith).

May I therefore pray and hope that you will kindly
arrange to give appointment of my son Shri Swapn Das on compo-
ssionate ground so that may live hand to mouth and thereby oblige.

Enclosed herewith
the following certificate :-

- (1) Death certificate of
late Anil Das.
- (2) School certificate of
Shri Swapn Das.
- (3)

Yours faithfully,

RTI of
(BINA RANI DAS)
Wife of late Anil Das.
Ex. Gangman under SSE/
P.WAY/BXP.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

21 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

certified to be
true copy
Rang Shankar Thakur,
Advocate

~~NORTH-EAST RAILWAY~~

OFFICE OF THE
DIVL. RLY. MANAGER (P)
JUMDING

Dated : - 2005

HC E/227/2005 (W)

CC

Shri/Smt.

Chandan Chakraborty
FI/4/LMG

SUB :- Application received on 1-6-06 which is submitted by the Widow / Ex-Employee / Son / Daughter / for appointment of Shri/Smt. ^{spl. Anil} SWAPAN DAS Ex-Gangman under SSE / R-Way / RXP for appointment on Compassionate grounds. The Employee died / Medically incapacitated / de-categorised / missing on 21-5-95

Central Administrative
केन्द्रीय प्रशासनिक न्याय

21 AUG 2006

Guwahati Bench
गुवाहाटी न्यायप

An application submitted for Consideration of the above named for appointment in the Railway in Class -III/IV Post on Compassionate ground which is enclosed.

In order to examine the case please resubmit the application along with your enquiry report in the Prescribed Proforma (enclosed) immediately along with the followings:-

- (1) A Certified copy of death / Medically incapacitated / de-categorised / FIR (for missing) Certificate.
- (2) A Certified copy of age proof / School leaving Certificate of the candidate of Affidavit (in case of Widow only).
- (3) A Passport size Photograph of Candidate duly attested by Gazetted Officer on the front side.
- (4) Application to be forwarded by Subordinate Incharge of the Employee.

Please treat as Most Urgent. Reply to GM/Railway Board is held up.

Applications of time barred and missing cases to be Collected in duplicate along with all Supported documents and enquiry report.

- 2) In case of Medically Unfit for further service it should be clearly indicated in the report if the staff concerned was declared Medically Unfit in terms of rule (512) of IRMM or not.
- 3) In case of Employee died as bachelor, a copy of Family/Pass Declaration of the Employee duly attested should be submitted. The details of ex-employees father should also be indicated in the report if possible by supporting documents.

4) The B/Report must be with joint Photograph of the candidate.

Certified to be true copy
Ranga Shankar Thakur
Advocate.

Copy to : -

(1) Shri Smt. Bina Rani Das
w/o. s/o, D/o, Late/Smt. Amal Ch. Das

Ex Grangman Under SSE/P-Way/BAD
c/o

Vill/ Town

P.O. BXP Pin

Dist. Golaghat

for information. This is in reference to his/her application referred above. He/She is also requested to contact with Shri Shantanu Chakraborty, P.I./Chief / Senior Labour Welfare Inspector immediately for giving necessary family particulars and documents, etc.

DA 9.6.06
for Divl. Rly. Manager(P),
Lumding.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

certified to be
true copy
Rania Shankar Thakur
Advocate

(Typing copy)

- 16 -

Regd. Post.

E/227/Misc.LM/Comp(W)Pt.I
DRM(P)'s Office
Lumding.

DRM(P) LMG

N.F.Rly.
11.1.07.

Smti. Bina Rani Das,
W/O late Anil Ch. Das,
C/O Sri Madan Ch. Dey, Bokajan, Biscuit Factory
Gobindabari Road, P.O. Bokajan.
Dist. Karbi Anglong (Assam).

Sub: Prayer for appointment of Shri Swapan Das on comp. ground.

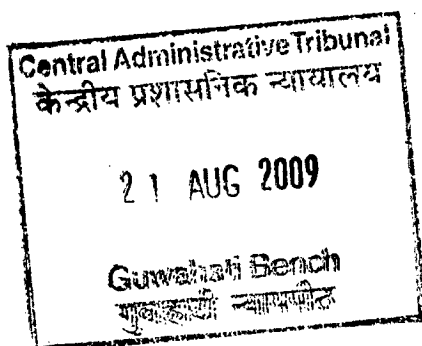
Ref:-Your application dt. 16.5.06.

With reference to the above it is to inform you that since you had already been offered appointment on compassionate and joined as SFLA under the H&MI/DMV on 13.6.94 on a account of death of your husband, the question of CGA of your son Shri Swapan Das on the same account does not arise.

Sd/- Illegible,

11.1.07.

Divn. Rly. Manager,
N.F. Rly. Lumding.



C.P.

certified to be
true copy
Rama Shankar Thakur
Advocate.

Regd Post



Post Office / N. E. Railway

आर. ए. रेलवे पोस्ट ऑफिस / N. E. रेलवे

E/227/MISC/LM/Comp(W) Pt. I

No.

DRM(P)'s Office

DRM(P) LMG

11.1.07

To

Smt. Bema Rani Das

W/O. Lt. Anil Ch. Das

C/o Shri. Madhukar Ch. Das, Bismit Factory

Gabinda Bazar Road, P.O. Bokajan

Dist. Karbi Anglong (Assam).

From

Prayer for appointment of Shri Swapan

Ref

has in camp ground

Ref: your application dt. 16.5.06.

With reference to the above, it is to inform you that since you had already been offered appointment on comp ground and joined as SFHA under H&M/10000 15.8.74 on account of death of your husband, the question of CGA of your son Shri Swapan has in the same account does not arise.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

DRM(P) LMG
11.1.07
Divl. Rly. Made
S.F. Rly. Laid on

- 17 -

ANNEXURE - VI

To,

The Divisional Railway Manager,
N. F. Railway, Lunding.

Sir,

Sub : Prayer for Appointment of my Son Shri Swapn Das,
on Compassionate ground.

Central Admini-
केन्द्रीय प्रशासन
21
Guwah
गुवाहाट

With due respect I beg to lay before you the following few lines for sympathetic consideration and necessary action please.

That Sir, I the widow of Late Anil Chandra Das, ex. Gangman under PWI/BXP. My husband expired on 05.12.1990 during his Service.

My name was Nominated for appointment on compassionate ground and offered myself to join as SFLA under H&MI/DMV. But I was unable to work due to my ill health and I did not join and work and no salary drawn by me and I did not attend in H.MI/D Office. But DRM/P/LMG vide his letter dated 05.12.94 asked me to explain for un-authorised absent from duty. Accordingly, I submit my application dated 24-12-94 (Photo copy enclosed) to DRM/P/LMG stating that I was suffering from Asthma for long Period and I am not in a Position to serve this Rly. due to my ill-health and I prayed to appoint my son Shri Swapn Das (then he was 10 years of age when he will attend at the age of 18 years. My application dated 24-12-94 has been considered. DRM/P/LMG vide his letter NO. E/227/1 LM/Comp/W/Pt. XXXVI dated 25/4/1995 (Photo copy enclosed) has informed me that change of Nomination in favour of my son Shri Swapn Das is accepted by DRM for registration on compassionate ground. When my son reached at the age of 18 years I applied dated 16.5.06 for appointment of my son Shri Swapn Das.

DRM/P/LMG vide his letter NO. E/227/Eng/Comp/W dated 09-6-06 advised Shri Chandan Chakraborty PI/111/LMG to submit detailed report with necessary papers of Shri Swapn Das, S/O Late Anil Ch. Das ex. gangman under PWI/BXP.

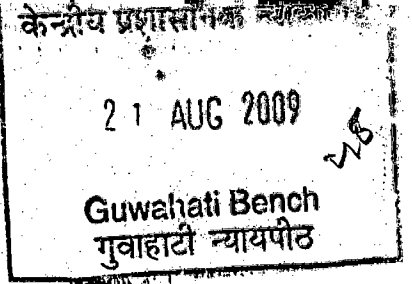
As per advise of Shri Chandan Chakraborty PI/111/LMG, School Certificate, Photograph, Death Certificate, of Late Anil Ch. Das, etc. submitted by Shri Swapn Das, along with a XEROX copy of DRM/P/LMG's letter NO. E/227/1/LM/Comp(W)/Pt. XXXVI dated 25/4/1995 where in Shri Swapn Das has been considered for appointment on Compassionate ground.

Co-eligible d to be
+ sue copy
Rama Shankar Thakur
Advocate

Contd.....2.

-18-

2



But it is sorry to here mentioned that DRM/P/LMG vide his letter NO. E/227/MISC/LM/Comp(W)/Pt.1 dated 11.1.07 stating that as I was offered for appointment on Compassionate ground as SFLA and joined on 13.6.94 Under M&MI/DMV, So, question of compassionate ground appointment of my son Shri Swapan Das does not arise.

The Rly. authority (DRM/LMG) has accepted the Change of Nomination and Shri Swapan Das has been registered for Compassionate ground appointment but now he has been regretted by DRM/P/LMG for C.G.A. ignoring the DRM's acceptance ^{order} ~~letter~~ dated 25/4/1995.

May, I therefore pray and hope that you will kindly look into the matter sympathetically and arrange to give appointment of Shri Swapan Das on Compassionate ground so that we may live hand to mouth and thereby oblige.

With regards.

Date
03-05-2007

Your's faithfully,

- DA : (1) Application dated 24.12.94.
(2) DRM/P/LMG's letter dated 25.4.95
(3) DRM/P/LMG's letter dated 09.6.06.

RTI of
Bina Rani Das,
W/O. Late Anil Ch. Das,
C/O. Milan Ch. Dey,
Biscuit factory,
Gobinda Bari Road,
P.O. Bokajan,
Dist. Karbi Anglong,

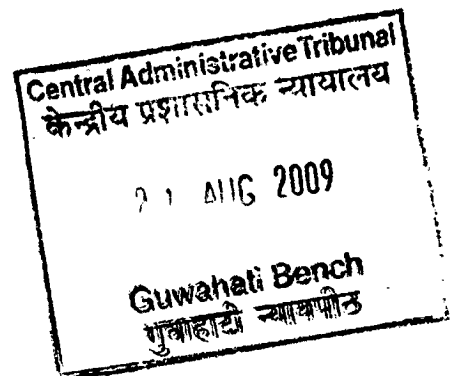
Pin - 782480
(Assam)

certified to be
true copy
Rama Shankar Thakur
Advocate

Dated :09-01-2008

To,

The Divisional Railway Manager,
Lumding Division, N.F. Railway,
Lumding.(Assam)



Subject:- Prayer for Appointment of my son shri Swapan Das on compassionate ground.

Sir,

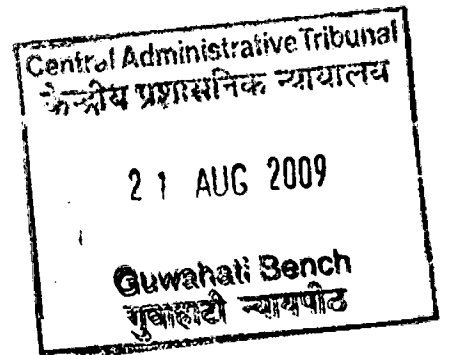
With due respect I beg to lay before you the following few lines for sympathetic consideration and necessary action please.

That sir, I am the widow of Late Anil Chandra Das , Ex. Gangman under PWI/BXP and expired on 05-12-1990 during his service time. My name was Nominated for appointment on compassionate ground and offered myself to join as SELA under H&MI/DMV. But I was unable to work due to my ill health and I did not join in service and no salary drawn by me and I did not attend in H&MI/DMV office. But DRM/P/LMG vide his letter dated 05-12-94 asked me to explain for unauthorized absent from duty. On 24-12-94, I submit a application to DRM/P/LMG stating that I was suffering from Asthma for long period and I am not in a position to join in Railway service. and I prayed to appoint my son shri Swapan Das (when he will attend at the age 18 years) .On 24-12-94, my application has been considered and accepted by DRM/P/LMG vide his letter No E/227/LM/Comp/W/Pt.XXXVI and informed me that change of Nomination in favour of my son shri swapan Das is accepted by DRM/P/LMG for registration on compassionate ground. On 16-5-2006, when my son reached at the age of 18 years, I applied for appointment on compassionate ground.

On 09-6-2006, DRM/P/LMG vide letter No. E/227/Eng/Comp/W advised Chief and senior welfare Inspector, Lumding Shri Chandan Chakra borthy PI/111/LMG to submit detailed report with necessary papers of shri swapan Das, S/O late Anil Ch. Das Ex. Gangman underPWI/BXP.As per advice of shri Chandan Chakraborty PI/111/LMG, I submitted school certificate, photo of my son and death certificate of my husband.

Contd....2

certified to be
true copy
Rang Shankar Thakur,
Advocate.



-2-

On 11-01-2007, one letter issued by DRM/P/LMG vide his letter No.1 E/227/MISC/LM/Comp(W)/Pt.1 stating that as I was offered for appointment on compassionate ground as SELA under H&ML/DMV, So question of compassionate ground appointment of my son shri swapan Das does not arise.

The Divisional Railway manager (P) Lunding had accepted the change of Nomination and shri Swapan Das has been registered for compassionate ground appointment but now he has regretted by DRM/P/LMG for C.G.A ignoring the DRM's acceptance order dated 25-4-1995.

I, therefore pray and hope that you will kindly look into the matter sympathetically and arrange to give appointment of my son shri swapan Das on compassionate ground.

Yours faithfully,



RTI of

Bina Rani Das

W/O Late Anil Ch. Das

Biscuit Factory,

Gobinda Bari Road, PO. Bokajan,

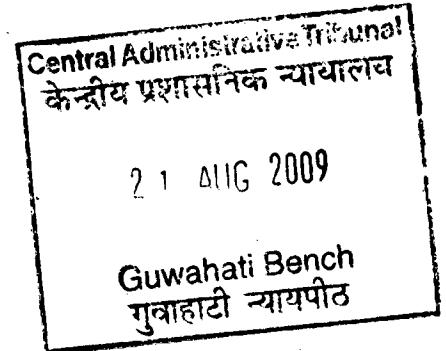
Dist. Karbi Anglong, (Assam)

Certified to be
true copy
Rama Shankar Thakur,
Advocate

Dated :01-08-2008

To,

The Divisional Railway Manager,
Lumding Division, N.F. Railway,
Lumding. (Assam)



Subject:- Prayer for Appointment of my son shri Swapan Das on compassionate ground.

Sir,

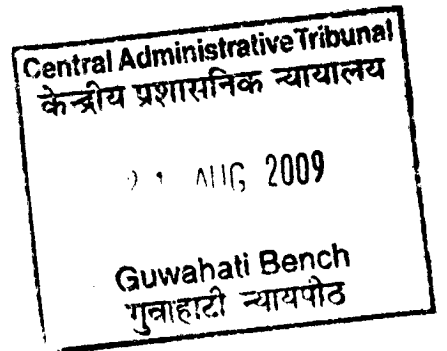
With due respect I beg to lay before you the following few lines for sympathetic consideration and necessary action please.

That sir, I am the widow of Late Anil Chandra Das , Ex. Gangman under PWI/BXP and expired on 05-12-1990 during his service time. My name was Nominated for appointment on compassionate ground and offered myself to join as SELA under H&MI/DMV. But I was unable to work due to my ill health and I did not join in service and no salary drawn by me and I did not attend in H&MI/DMV office. But DRM/P/LMG vide his letter dated 05-12-94 asked me to explain for unauthorized absent from duty. On 24-12-94, I submit a application to DRM/P/LMG stating that I was suffering from Asthma for long period and I am not in a position to join in Railway service. and I prayed to appoint my son shri Swapan Das (when he will attend at the age 18 years) .On 24-12-94, my application has been considered and accepted by DRM/P/LMG vide his letter No E/227/LM/Comp/W/Pt.XXXVI and informed me that change of Nomination in favour of my son shri swapan Das is accepted by DRM/P/LMG for registration on compassionate ground. On 16-5-2006, when my son reached at the age of 18 years, I applied for appointment on compassionate ground.

On 09-6-2006, DRM/P/LMG vide letter No. E/227/Eng/Comp/W advised Chief and senior welfare Inspector, Lumding Shri Chandan Chakra borty PI/111/LMG to submit detailed report with necessary papers of shri swapan Das, S/O late Anil Ch. Das Ex. Gangman underPWI/BXP.As per advice of shri Chandan Chakraborty PI/111/LMG, I submitted school certificate, photo of my son and death certificate of my husband.

Contd....2

*certified to be
true copy
Rama Shankar Thakur,
Attro case.*



-2-

On 11-01-2007, one letter issued by DRM/P/LMG vide his letter No.1 E/227/MISC/LM/Comp(W)/Pt.1 stating that as I was offered for appointment on compassionate ground as SELA under H&MI/DMV, So question of compassionate ground appointment of my son shri swapan Das does not arise.

The Divisional Railway manager (P) Lumding had accepted the change of Nomination and shri Swapan Das has been registered for compassionate ground appointment but now he has regretted by DRM/P/LMG for C.G.A ignoring the DRM's acceptance order dated 25-4-1995.

I, therefore pray and hope that you will kindly look into the matter sympathetically and arrange to give appointment of my son shri swapan Das on compassionate ground.

Yours faithfully,



RTI of

Bina Rani Das

W/O Late Anil Ch. Das

Biscuit Factory,

Gobinda Bari Road, PO. Bokajan,

Dist. Karbi Anglong, (Assam)

certified to be
true copy
Rama Shan Das Thakur
Adm case

Dated : 02-03-2009

To,

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

2. The Divisional Railway Manager (P),
N. F. Railway, Lunding
Lunding Division.

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Bench गुवाहाटी न्यायपीठ

Sir,

Sub:-Prayer for appointment of my son Shri Swapan Das,
on Compassionate ground.

With due respect, I beg to lay before you the following
few lines for sympathetic consideration and necessary action
please.

That sir, I the widow of Late Anil Chandra Das, Ex-Gangman,
under PWI/BXP. My husband expired on 05.12.1990 during his
service time.

My name was nominated for appointment on Compassionate
Ground and offered myself to join as SELA under H&MI/DMV. But
I was unable to work due to my ill health and I did not join.

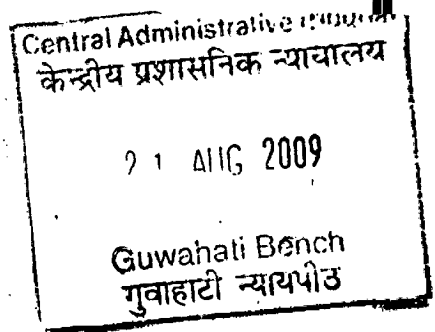
I prayed to appoint my son Sri Swapan Das (then he was 10
years) when he will attend at the age of 18 years. My application
dated 24.12.94 has been considered, DRM/P/LMG vide his letter No.:
E/227/LM/Comp/W/pt-XXXVI, dated 25.4.95, has informed me that
change of nomination in favour of my son Sri Swapan Das is
accepted by DRM(P) for registration on Compassionate ground.
When my son reached at the 18 years. I applied dated 16.05.06
for appointment of my son Sri Swapan Das.

Contd. on p/2

*Certified to be
true copy
Rang Shankar Thakur
Advocate*

-24-

/P/2/



DRM/P/LMG, vide his letter No: E/227/Eng/Comp/w, Dated 09.06.06 advised to submit detailed report with necessary papers of Sri Swapan Das, S/o: Late Anil Ch. Das, Ex-Gang man under P/A/BXP.

As per advise of Sri Chandan Chakraborty PI/III/LMG, School Certificate, Photograph, Death Certificate of Late Anil Ch. Das etc. submitted by Sri Swapan Das, along with a Xerox copy of DRM/P/LMG's Letter E/227/1/LM/Comp(w)/Pt. XXXVI, dated 25.4.95 where in Sri Swapan Das has been considered full appointment on Compassionate Ground.

But it is sorry to here mentioned that DRM/P/LMG vide his letter No: E/227/MISC/LM/Comp(w)/Pt. 1, dated 11.1.07 stating that as I was affored for appointment on Compassionate Ground. So, question of compassionate ground appointment of your son Sri Swapan Das does not arise.

The DRM(P), Lunding has accepted the change of nomination and Shri Swapan Das has been registered for Compassionate ground appointment but now he has been regretted by DRM/P/LMG for C.G.A ignoring the DRM's acceptance order dated 25.4.1995.

I, therefore pray & hope that you will kindly look into into the matter sympathetically and arrange to give appointment of my son Sri Swapan Das, on Compassionate ground. So that we may like hand to mouth and thereby oblige.

With regards,

Your's faithfully,

RTI of

(BINA RANI DAS)

w/o: Late Anil Ch. Das

C/o: Milan ch. Dey

Biscut Factory, Gobindabari Road

P.O: Bokajan - 782480

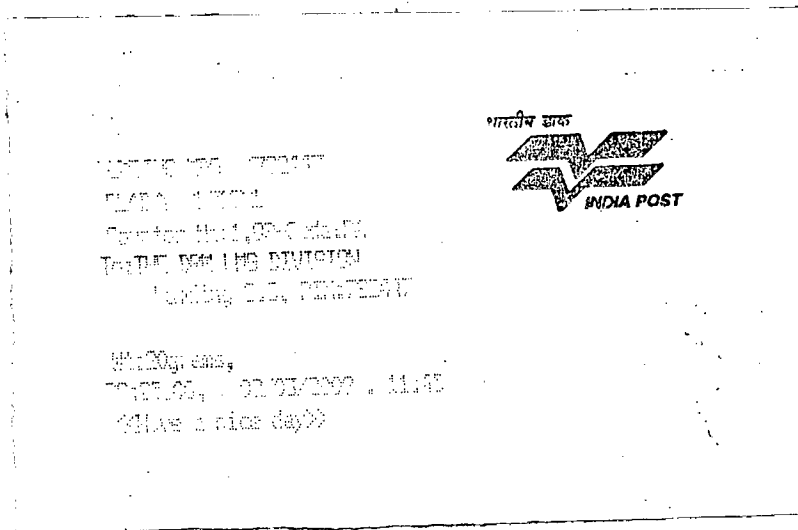
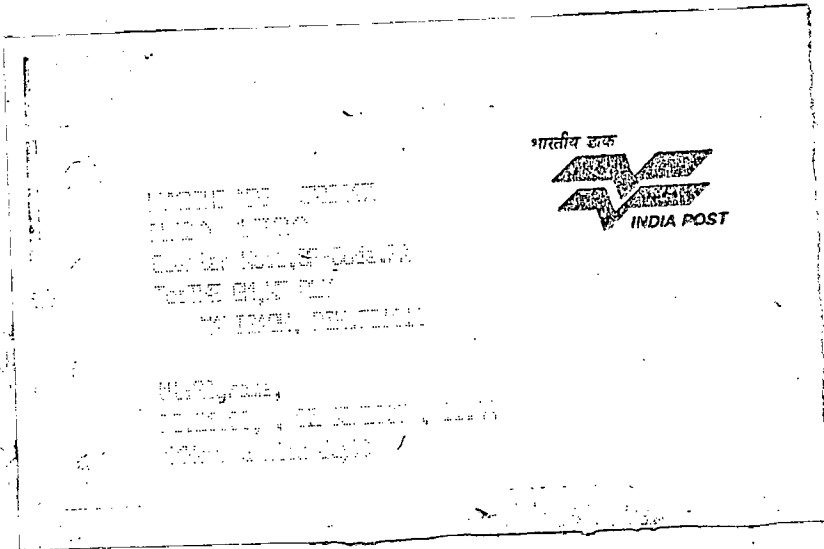
Dist: Karbi-Anglong (Assam)

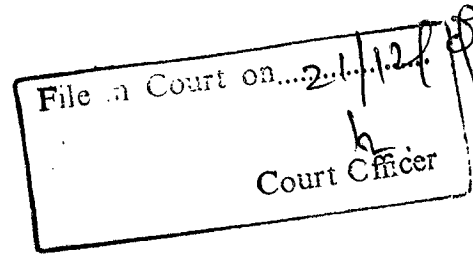
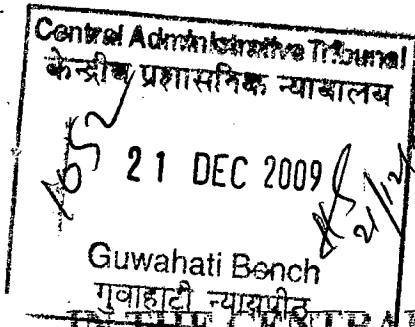
certified to be
true copy
Rama Shankar Thakur
Advocate

Identified by
Rama Shankar
Thakur
Advocate

Registered post

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 AUG 2009
Guwahati Branch
गुवाहाटी न्यायालय





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI.

O.A. No. 163 of 2009

Srimati Bina Rani Das.

..... Applicant

-Vs-

Union of India & others

..... Respondents.

INDEX & LIST OF DATES

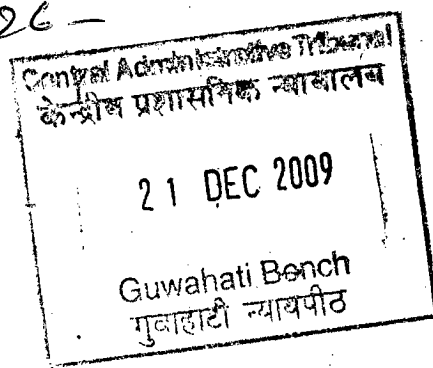
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Filed by

Bharati Devi

Advocate, Guwahati.

21/12/09



Filed by

Charati Devi
By Advocate NF Rly
Guwahati
21.12.09

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

O.A. No. 163 of 2009

Srimati Bina Rani Das

..... Applicant

-Vs-

Union of India & others

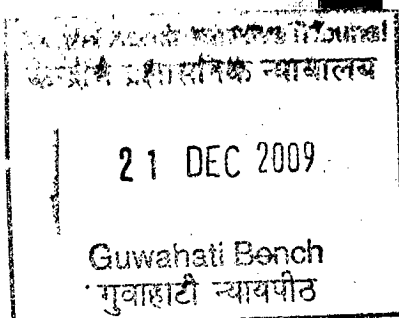
..... Respondents.

Amalendu Jais
Sr. Divl. Person's Office
N. G. Rly, L. S. J.

**WRITTEN STATEMENTS ON BEHALF OF
THE RESPONDENTS.**

The Written statements of the Respondents are as follows :-

1. That a copy of the Original Application No. 163/09 (herein after referred to as the " application" has been served upon the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents, the rest of the statements made in the application may be treated as denied.
3. That the statements made in paragraph 4(i)& 4(ii) to the application the answering respondent has no comment.
4. That in regard to the statements made in paragraph 4(iii) to the application the answering respondent begs to state that after the death of the applicant's husband late Anil Ch. Das, Ex. Gangman and on completion of departmental process the applicant Smti Bina Rani Das (wife of late Anil Ch. Das) was offered for appointment as substitute Sanitary Cleaner (Safaiwala), as per Office Order of DRM(P)/LMG dated 25.5.94 vide annexure-I to the application, for three(3) months at the first instance and thereafter she will be allowed to continue further only if her performance is



found satisfactory . The applicant was directed to report to CMS/LMG for her medical fitness and for further report. On being found medically fit the applicant was posted as Substitute F/ Safaiwala under H & M I /DMV vide Sr. DMO/LMG's office letter Memo. NO. E/227/1/LM(Med) dt. 7.6.94 incorporating certain terms and conditions thereon and with the approval of the competent authority .

A copy of the intimation letter of the Sr. DMO/LMG dated 7.6.94 is annexed hereto as Annexure-A .

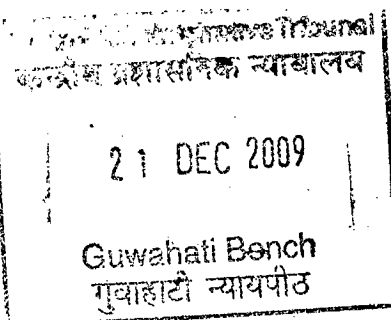
5. That the statements made in paragraph 4.(iv) to the application are untrue and the same are stoutly denied by the answering respondent. The answering respondent begs to state that in terms of the letter dated 7.6.94 as cited in the preceding paragraph the applicant joined her duty as Female Safaiwala on 13.6.94 and the said joining of the applicant was intimated to the DRM(p)/med/LMG by the H & MI/DMV vide his letter Memo. No. DMV/EST/1 dated 13.6.94

A copy of the aforementioned intimation letter of H&MI/DMV dated 13.6.94 is enclosed herewith and marked as Annexure- B

6. That the deponent in reply to the statements made in paragraph 4(v) & 4(vi) to the application begs to state that in case of death of a service holder/ employee who is the only bread earner of his family his legatee/near relative whenever applies for appointment on compassionate ground his/her application has to be registered as per existing procedure. In the instant case the application for appointment on compassionate ground of applicant's son was registered on 25.4.95 being a minor case and it was intimated to the applicant vide annexure-II to the OA.

7. That in regard to the statements made in paragraph 4(vii) & 4(viii) to the application the answering respondent begs to state that the DRM(P) /LMG vide office memo No. E/227/ENQ/Comp(W) dated 9.6.2006 requested the applicant to contact with the PI/III/LMG ^{Sty} Chief and Sr. Lab.

Guwahati Bench
Sr. Divl. Person - 108
E. S. Rly, I. S. C.



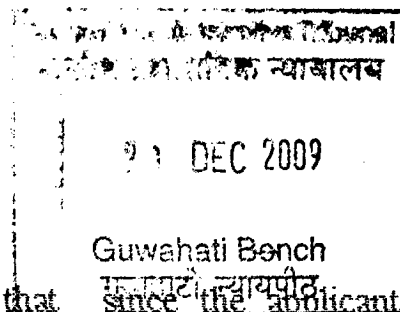
Welfare Inspector with necessary papers to enable him to make enquiry and to submit report for appointment on compassionate ground.

8. That the statements made in paragraph 4.(ix)& 4.(x) to the application the deponent has no comment unless contrary to the records. The applicant joined her duty on 13.6.94 under H & MI/DMV. Further the applicant has submitted Class-VIII pass school certificate & death certificate of her deceased husband for appointment of her son on compassionate ground.

9. That the allegations set forth in paragraphs 4.(xi), 4.(xii) & 4.(xiii) to the application are not correct and the same are not acceptable at all. As per order of the DRM(P)/LMG dated 9.6.06 the Personnel Inspector/III/LMG enquired the matter and had submitted the enquiry report from which it was transpired that Smti Bina Rani Das wife of late Anil Ch. Das (Ex. Gangman under SSE/P-Way/BXI) was appointed in Railway on compassionate ground as SFLA under Health and Malaria Inspector/DMV(Dimapur) as per order of DRM(P)/LMG dated 25.5.94 as stated above and joined under H&MI/DMV on 13.6.94. Thereafter the applicant remained absent from duty w.e.f. 14.6.94 without intimation to the authority concerned. The H & MI /DMV / N.F.Rly informed the applicant's unauthorised absence from duty vide his letter Memo. No. DMV/EST/1 dated 4.07.94. As a consequence of the applicant's unauthorised absence from duty she was removed from service w.e.f. 1.11.96 vide Sr. DMO/LMG's NIP No. PC/BRD dated 12.11.96. The NIP was sent to the applicant to her home address by Regd. Post with A/D.

A copy of the letter of the H & MI/DMV dated 4.7.94 is enclosed herewith and marked as annexure-C & a copy of the order of removal from service issued by the DRM(P)/LMG dated 12.11.96 is annexed herewith and marked as annexure-D.

59
 St. Divl. Person (Office)
 St. Divl. Person (Office)
 St. Divl. Person (Office)



10. That the deponent begs to submit that ~~since the applicant~~ was appointed earlier on compassionate ground and joined as SFLA under H & M/DMV on 13.6.94, concealing the above fact she approached the Railway authority for appointment of her son on compassionate ground and the Railway authority after proper enquiry rejected the said prayer of appointment vide DRM(P)LMG's letter No.-E/ 227/ Misc/ LM/Comp(W) Pt.I dated 11.6.07.

Antony Jivis

A copy of the letter of the DRM(P)LMG dated 11.6.07 is enclosed herewith and marked as annexure-E

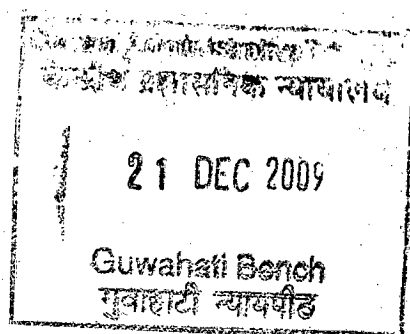
11. That it is pertinent to mention herein that once appointment on compassionate ground was offered to a candidate and if he / she posted/resumed in any category of post meant for compassionate ground in that case no further appointment on compassionate ground of any member of the family of the person concerned is permissible.

12. That the deponent begs to submit that the implication of appointment on compassionate ground is lacking in the instant case.

13. That from the facts and circumstances quoted above, no arbitrary and illegality has been committed by the Railway Authority rejecting the claim of the applicant for CGA of her son as alleged by the applicant. The applicant has no prima facie case at all.

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

15. That appointment on compassionate ground is an exception carved out to the general rule of appointment by recruitment process. Dependents of employees who died in harness do not have any special or additional claim to public services other than the one conferred if any, by the employer. The claim for compassionate appointment and the right, if any, is



traceable only to the scheme, executive instructions, rules, etc. framed by the employer/administration in the matter of providing employment on compassionate grounds. Apart from that the dependant, has no special or additional claim or right to appointment on compassionate ground. Hence there is no scope of judicial interference to direct the administration to give compassionate appointment contrary to the scheme.

Concurrence

সি. ডি. প. সন. 'ও.সি.
জ. ডি. প. সন. 'ও.সি.
N. B. Rly., L.

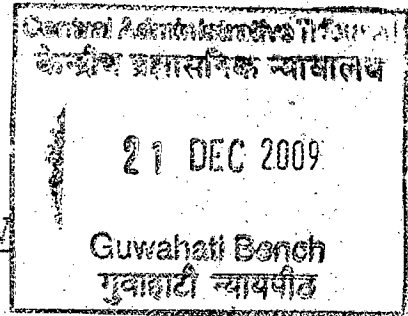
16. That the answering respondent begs to state that long lapse of time of the applicant after joining service on compassionate ground on account of the death of the deceased employee particularly unauthorised absence from duty without any information is clear indicative of the fact that the deceased family has sufficient means of livelihood. Under such circumstances compassionate appointment can not be granted to the son of the deceased employee after he attained majority.

17. That the authority has rightly passed the order and the son of the applicant is not entitled to any appointment in place of his deceased father as claimed. As such the interference of the Hon'ble Tribunal is unwarranted for the ends of justice.

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

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

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



VERIFICATION

I, Shri AMBESWAR SAIKIA Son of LATE CHANDRA SAIKIA resident of LUMDING at present working SENIOR DIVISIONAL PERSONNEL OFFICER / Lumding the being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in paragraph ... (15) ... are true to my knowledge and belief, and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this ... 21st ... day of Dec, 2009 at Guwahati.

DEPONENT

वरिष्ठ कर्मिक अधिकारी
S. Divl. Personnel Office
पु.सो.रेलवे, कामडिग
N. B. Rly., Lumding

N. F. RAILWAY.
3 DEC 2009
Guwahati Bench

Office of the
Divisional Rly. Manager/P,
Lumding.

No.E/227/1/LM(Med).

Dtd 7-6-11/24

To
Smt Bina Rani Das

W/o Late Snail Ch. Das

Ex. CMA under PW3/BXP

Sub: - Appointment on compassionate
ground.

Having been selected for appointment on compassionate ground in Class IV post are being found medically fit in Class Below 1st below you are hereby temporarily appointed as Substitute Eligible on Rs.750/- p.m. in scale Rs.750-940/- plus other allowances for a periods of 3 months. Your service will be regularised after 3 months subject to performance being satisfactory.

If you agree to accept the offer of appointment on the above condition then report yourself for duty to SI 2-MR/DMV.

You will be considered for regular appointment after verification of character and antecedents from the police authority.

This issues with the approval of competent authority.

Sr. D.M.O./N.F.Rly,
Lumding.

Copy to: - SI 2-MR/DMV for information.
The date of reporting of the above named candidate should be intimated to the DRM(P/Med/Lumding and working report on completion of 3 months service to Welfare section/Lumding without fail.

Copy to: - CMS/LMZ for information.

Copy to: - DAO/Lumding.

Copy to: - Bill and Estt. section at office.

Sr. D.M.O./N.F.Rly,
Lumding
N.F.Rly

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Annexure - B

8/16
278 64

L. no:- Dm/EST/1. ^{N.F.Rhy}

13/6/94

21 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

From, H & mi/Dm.
N.F.Rhy.

To, Dm(P)/med/Lmh.
N.F.Rhy.

Sub:- ~~joining report of Smt. Bina Rani~~

Don. F.S/wala/Dm.
Ref:- your L.no:- E/223/1/Lm(med), dt:- 7.6.94.

As per your above reference
no. - E/223/1/Lm(med), dt:- 7.6.94. Smt.
Bina Rani Don. F.S/wala/Dm. join
her duty on 13/6/94.

This is for your information R.

P/cor

[Signature]
13/6/94.

সিঃ এফ নবীঃ বিদ্যে
সিঃ এফ নবীঃ / সীমায়
সিঃ এফ নবীঃ বিদ্যে

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 DEC 2009
Court of Appeal
N.F.Rty.

34- Annexure - C
9-

277
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L. NO. - DMV/EST/1.

From, H & ms/Amv.
N. F. Rty.

To, DDM(P)/med/Lmk.
N. F. Railway.

At- 4/7/94.

Sub:- un-authorise absent of
Smti, Bina Rani Das, F/sub/S/wala/Amv.

As per your L. NO. - E/227/1/Lm.(med).
At- 7.6.94. Smti, Bina Rani Das, F/sub/
S/wala/Amv. she is join her duty on
13/6/94. But she is un-authorise
absent from her duty on 14/6/94. to
still date. without any information.
So, you kindly take necessary action
Please.

[Signature]
4/7/94.
सा. एवं वरि. विरी.
पु. सी. रेलवे / रोमापुर
द. & M. L/N.F. Rly./DMV

gagan
2/2

① copy to DMV/Lmk. for information
and necessary action please.

सा. एवं वरि. विरी.
पु. सी. रेलवे / रोमापुर
द. & M. L/N.F. Rly./DMV

- 35 -
Annexure - 1

280 66

N.F.Railway.

BY REGD. POST WITH A/D

Notice of imposition of penalty of Removal from service - DAR - 1968.

No. PC/BRD.....

Dated 12-11-96.....

To Smt. Bina Rani. Dan. F/Sabaiwalla / DMV
10 Milan ch Dey. Biscuit Factory
P.O. Bokajan Vill Gobinda Banti Dist Karbi Angolong (Assam)
Father's name w/o Late Anil ch. Dan.

Designation & Station F./Sabaiwalla / DMV

Scale of pay 750/- (Rs. 750-940 / Rps) Deptt. Medical

Date of appointment 12-6-94

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
21 DEC 2009
Guruchati Bench

Since you failed to submit any defence to the memorandum of charges for Major penalty issued by Sr DMO / JMC vide No PC/BRD dated 20-1-95..... and also failed to attend to DAR enquiry held on 12-7-95..... the enquiry has been held on ex parte and the following charges have been proved.

As per records the Staff concerned worked for only one day after that she was unauthorized absent her self wef 14-6-94 to till date. But long time lapses no representation or any defence received from the Staff concerned.

You are hereby informed that in accordance with the order passed by the undersigned you are removed from service with effect from 1-11-96

Copy of the proceeding and finding of DAR enquiry is enclosed herewith.

Receipt of the NIP may be acknowledged.

Signature of Disciplinary Authority.

DA/-As above.

Copy to H4 Mr. Gnr-1 / JMC in duplicate information & n/a. He will please hand over one copy of the NIP to the party if available otherwise display the same on the notice board in presence of two witness with the intimation to this office.

1. CC/FS soc. at office (5) 05/24 Bill (4) 05/24 for information and n/action (5) 05/24 S. DMO (4)

Signature of Disciplinary Authority.

Annexure - E - 36 By Post 24/11/07
No. E/227/Misc/LM/Comp(W) Pt. I

To,
Smt. Bina Rani Das
W/o. Lt. Anil Ch Das
C/o. Smt. Milan Ch Das
Biscuit Factory
Gobinda Bari Road
P.O. Bokajan
Dist. K. J. Aizlong (Assam)

Office of the
Divl. Ry. Manager (P)
& Lunding
Dt. 11.6.07.

Subj: Appth. of Smt. Swapna Das
on Comp. ground.
Ref: your application dt. 3.5.07.

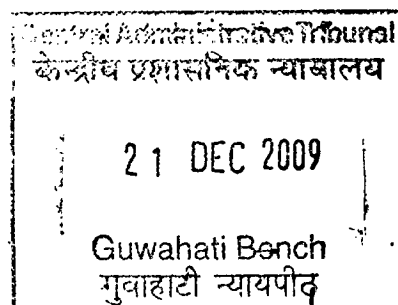
With reference to your above application, this is to inform you that since you had already accepted the offer of appointment on comp. ground and joined as F/Safaiwala under H & M/DMV on 13.6.94, vide DRM(P) LMG's L/NO. E/227/1/LM(Med) dt. 7.6.94 & H & M/DMV's L/NO-DMV/EST/1 dt. 4.7.94 respectively, hence the appointment of your son, Swapna Das, on the same account, is not permissible as per rule.

No further correspondence will be made in this regard.

Order
PP/2

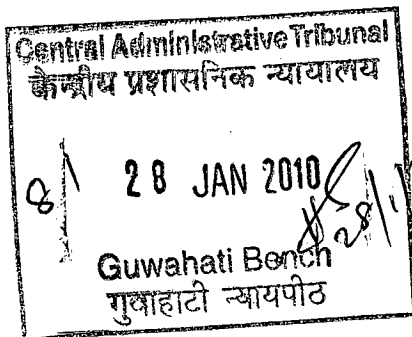
HD
11.6.07

11.6.07
Divl. Ry. Manager (P)
& Lunding



Filed by
Rama Shanbaig Thakur
Advocate
01-28-01-2010

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.**



O.A. NO. 163/2009.

Smt. Bina Rani Das.

..... Applicant.

- Vrs -

Union of India & others.

..... Respondents.

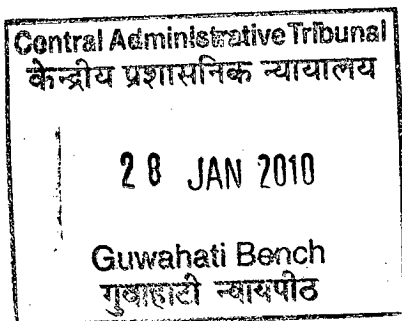
I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
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5.	Annexure-IX	11

Filed by :-

B. Thakur
Advocate.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.**



O.A. NO. 163/2009.

Smt. Bina Rani Das.

..... Applicant.

- Vrs -

Union of India & others.

..... Respondents.

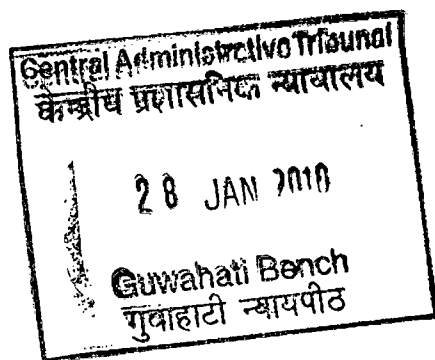
IN THE MATTER OF :-

A rejoinder submitted by the applicant in reply to the written statement filed on behalf of the respondents.

The humble applicant above-named, Most Respectfully, begs to state as follows :-

1. That a copy of the written statement filed on behalf of the respondents before this Hon'ble Tribunal in connection with the above mentioned case has been duly served on the applicant through her learned Advocate. The applicant has gone through the same and understood the contents thereof.
2. That your humble applicant categorically denies the statements made in the written

Filed by
Rang Shankar Thakur
Advocate
28-01-2010

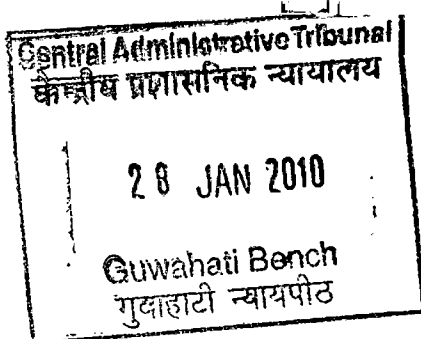


statement save and except what has been borne on record.

3. That with regard to the statements made in paragraphs-4 and 6 of the instant written statement, your humble applicant begs to state that although the applicant was offered the post of Substitute Sanitary Cleaner (Safaiwala) initially for three months, on compassionate ground, by the DRM(P), North-east Frontier Railway, Lumding vide letter dated 25.5.1994 (Annexure-I), she could not join the said appointment due to her illnesses and accordingly she had prayed for appointment of her son, Shri Swapan Das, who was then aged about 7 (seven) years 5 (five) months, on compassionate ground after he would attain the age of 18 years in due course, vide application dated 24.12.1994.

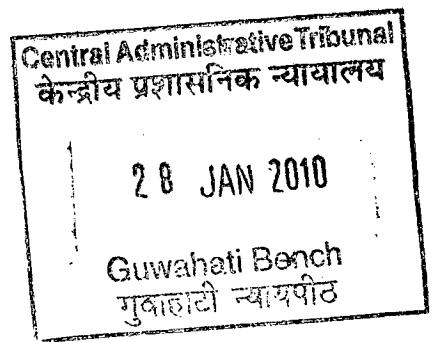
It may be mentioned here that the prayer of the applicant for appointment of her son, Shri Swapan Das, on compassionate ground was duly considered by the DRM(P), N.F. Railway, Lumding and she was informed about change of nomination in favour of her son, vide letter dated 25.4.1995 (Annexure-II).

Copies of medical certificate dated 2.6.1994 and the application dated 24.12.1994 are enclosed herewith as Annexures-VII and VIII respectively.



4. That with regard to the statements made in paragraphs-5, 8, 9 and 10 of the instant written statement, your humble applicant begs to state that she had not joined the post of Substitute Safaiwala under H&MI, N.F. Railway, DMV, on 13.6.1994 and that thereafter she had not remained absent from duty unauthorisedly since 14.6.1994, that is, from the following day as alleged in letter dated 13.6.1994 and 4.7.1994, enclosed as Annexures-B and C respectively, to the instant written statement. In this connection, your humble applicant begs to state further that she had never been served with any Memorandum of Charges dated 30.1.1995 and/or notice of DAR enquiry, stated to have been held on 12.7.1995 and/or copy of order dated 12.11.1996 alleged to have been issued by the Disciplinary Authority, enclosed as Annexure-D to the instant written statement, as mentioned in paragraphs-8, 9 and 10 thereof.

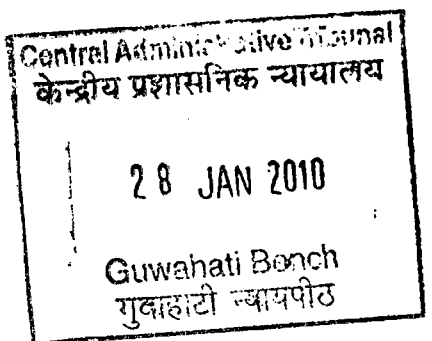
In this connection, your humble applicant begs to state further that the applicant was never paid any salary and/or pay and allowances for the service alleged to have been rendered by her during the said period and, as such, there is no basis for the statements made in paragraph-10 of the written statement that the applicant was appointed earlier on



compassionate ground and that she had joined as Safaiwala under H&MI, N.F. Rly, DMV, on 13.6.1994. Your humble applicant begs to state further that she had not received the copy of letter dated 11.6.2007, which has been enclosed as Annexure-E to the instant written statement.

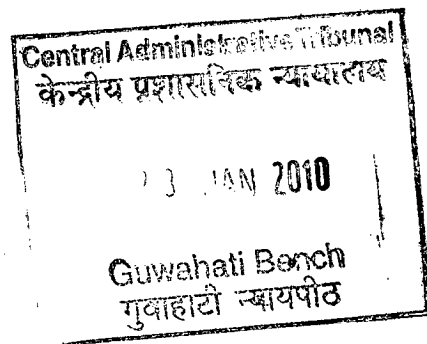
5. That with regard to the statements made in paragraphs-11 to 14, 16, 17 and 18 of the instant written statement, your humble applicant begs to state that the applicant has been forced to approach the Hon'ble Tribunal for redressal of her grievances and for proper consideration of her case for appointment of her son on compassionate ground in accordance with the provisions made in this connection by the Competent Authority, and as such, the present application is maintainable in law.

6. That with regard to the statements made in paragraph-15 of the instant written statement, your humble applicant begs to state that as per Railway Board's letter No.E(NG)II/99/RC-I/Genl/23 dtd. 30.11.1999 power has been delegated to DMRs/HODs/CWMs to consider cases of compassionate appointment where requests have been made for the first son/first daughter provided



the case is not more than twenty years old and the application has been submitted within two years from the date of attainment of majority of the candidate. In this connection, your humble applicant begs to state further that as mentioned earlier, the husband of the applicant expired on 5.12.1990 when the applicant's son Shri Swapan Das was minor and was aged about 3 years 4 months only, (his date of birth being 20.7.1987), and the application for his appointment on compassionate ground was made on 16.5.2006, i.e. within 16 years of the death of the applicant's husband and when the applicant's son had attained the age of about 18 years 10 months and thus, within two years from the date of attainment of majority by him and, as such, the present case is fully covered by the provisions of the aforesaid letter dated 30.11.1999 and that the DRM(P), NF Rly, Lumding is competent to make necessary appointment on compassionate ground in terms of the aforesaid letter dated 30.11.1994.

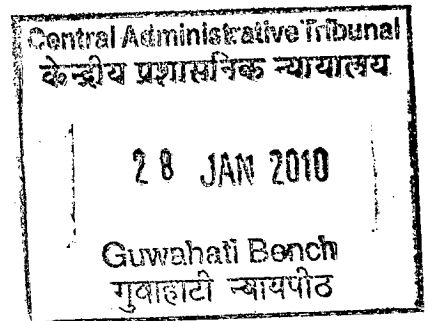
A copy of the aforesaid letter dated 30.11.1999 is enclosed herewith as Annexure-IX).



7. That your humble applicant begs to state that appointment on compassionate ground is a beneficial provision which has been provided for ensuring a proper means of livelihood, inter alia, to the dependents of Railway servants/employees who die in harness while in service. Such provision is required to be construed liberally, so that, the benefit thereof may be availed of by the dependents concerned without much difficulty. In view of the above, your humble applicant begs to state that it is pre-eminently a fit case in which this Hon'ble Tribunal may be pleased to direct the authorities concerned to extend the benefit of compassionate appointment to the applicant's son, Shri Swapan Das, in terms of the aforesaid letter dated 30.11.1999, without any further delay, so that, the helpless family may be able to pull on smoothly.

In the above circumstances, your humble applicant, most respectfully, prays that the Hon'ble Tribunal may be pleased to admit the application and to grant the reliefs as prayed for in the application and/or to pass such further order(s) as to this Hon'ble Tribunal may deem fit and proper.

And for this act of kindness, the humble applicant, as in duty bound, shall ever pray.



-: VERIFICATION :-

I, Smt. Bina Rani Das, wife of Late Anil Chandra Das, resident of Gobinda Bari Road, Biscuit Factory, P.O. & P.S. - Bookajan, District - Karbi Anglong, Assam, the applicant herein do hereby solemnly verify and state that the statements made in paragraphs-1 to 6 of the instant rejoinder are true to the best of my knowledge, information and belief and that I have not suppressed any material fact.

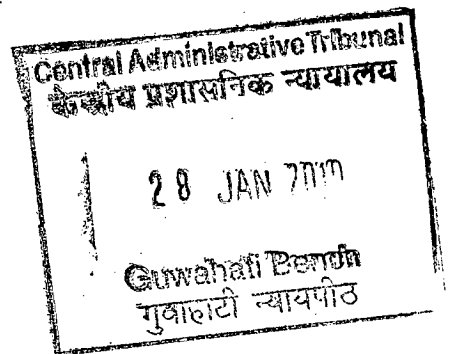
And I sign this verification on this
day of , 2010 at Guwahati.



RTI of
Smt. Bina Rani
Das.

S I G N A T U R E.

(Typed copy)



ANNEXURE- VII

Dr. D. Bharali
Sr. Medical Health Officer
Regd. No.8048 (AMC)
Bokajan 30 Beded Rural Hospital

Residence -
BOKAJAN CHC
COMPLEX.

Date :- 2/6/94

To Whom it May Concern

Certified that Mrs. Bina Rani Das of Bokajan, aged about 32 yrs. Had got COPD with Asthmatic bronchitis for which she was treated by me since 12.1.1994. She used to come regularly to my clinic for follow up. Though intensity of disease processes has come down. She regularly takes medicine under my supervision.

Sd/- Illegible.

2/6/94

DR. D. BHARALI
Sr. Medical Health Officer.
Regd. No.8048 (AMC)
Bokajan CHC K/A, Assam.

Seal

certified to be
true copy
Rama Shankar Thakur.
Advocate

Dr. D. Bharali

Sr. Medical Health Officer

Regd. No: 8048(AMC)

Bokajan 30 Beded Rural Hospital

Karbi Anglong (Assam)

Residence:

BOKAJAN CHC

COMPLEX

Guwahati Branch
গুৱাহাটী শাখা

Date 2/6/94

TO WHOM IT MAY CONCERN

Certified that Mrs. Bina
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Asthmatic bronchitis for which
she was treated by me since
12/1/1994. She used to come
regularly to my clinic for
follow up. Though intensity
of disease process has come
down, she regularly takes
medication under my super-



DR. D. BHARALI

Sr. Medical Health Officer

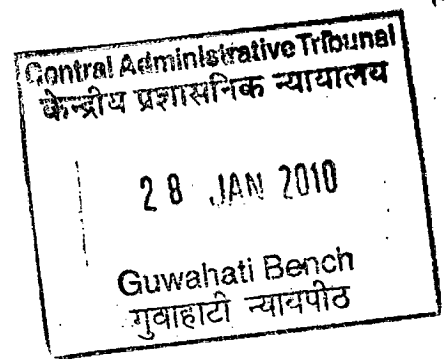
Regd. No.: 8048 (AMC)

Bokajan C. H. C. K/A Assam

certified to be
+ one copy
Rama Shankar Thakur
Advocate

10 - 47 -

Annexure - VII



To

The Divisional Railway Manager (P)
NF Railway, Lumding.

Sub :- Appointment on Compassionate Ground.

Ref :- Office Order No. E/227/22/LM/Comp(W) dated
25.5.1994.

Sir,

Most respectfully, I beg to inform you that I have been suffering from serious ailments for a long period since January, 1994 and therefore, I was not in a position to accept the appointment of substitute sanitary cleaner offered vide office order dated 25.5.1994, referred to above.

In the above circumstances, I would humbly request your honour kindly to consider the case of my son, Shri Swapan Das, who is at present aged about 7 years 5 months, for appointment on Compassionate ground in a suitable post as and when he ~~attains~~ ^{attains} majority, so that, the unfortunate family may survive and for this act of your kindness, I shall remain ever grateful to your honour.

Yours faithfully,



RTI of Smt Bina Rani Das,
W/o Late Anil Ch. Das,
Biscuit Factory,
Govinda Bari Road, P.O. Bokajan,
District - Karbi Anglong (Assam)

Dated 24.12.1994.

*certified to be
true copy
Rama Shankar Thakur
Advocate.*

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Annexure - IX

28 JAN 2010
Guwahati Bench
গুৱাহাটী ন্যায়ালয়

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N.E. Railway

Office of the
General Manager (P)
Guwahati-781011
Malignon, dated 20-12-99

No. 506E/81/9(W) Pt. III

To : DMS/KIR, APDJ, DMG & TSK
DM(P)s/KIR, APDJ, DMG & TSK
DY. CMEs/NDQS & DWS, CME/MIG
CSC/MIG, RA & CAO/MIG, AGO/GHY
GM (Construction) Malignon
GSS/NFERU & NERMU/2NO, GHY-12
GSS/AISCIREA & VERODCEA/MIG, GHY-11

Sub: Appointment on compassionate ground -
Delegation of Powers.
-0000-

A copy of the Railway Board's letter No.E(NG)II/99/RC-1/Genl/23 dated 30-11-99 on the above subject is forwarded herewith for information and guidance please.

Jhalidky
20/12/99
for GENERAL MANAGER (P)

(Copy of Railway Board's letter No.E(NG)II/99/RC-1/Genl./23 dated 30-11-99)
-0000-

Sub:- As above.

Attention is invited to Board's letter No.E(NG)II/84/RC-1/26 dated 22-12-94 read with letter dated 06-10-95, under which powers have been delegated to the General Managers for considering cases of compassionate appointments where request have been made for the first son/first daughter within a period of twenty years of the employee's demise, subject to the conditions stipulated therein.

2. The matter has been further considered by the Board, pursuant to a demand raised by the Organised Labour in the JCM/DC, and it has been decided that powers may be delegated to DMS/HODs to consider cases of compassionate appointments where requests have been made for the first son/first daughter, provided the case is not more than twenty years old and the application has been submitted within 2 years from the date of attainment of majority of the candidate.

CC-20/12.

certified to be
true copy
Ranjit Shankar Thakur
Advocate