

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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Par
03/07/2015
SECTION OFFICER (JUDL.)

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

ORDERSHEET

1. Original Application No: 97/2009

2. Mise Petition No: 1

3. Contempt Petition No: 1

4. Review Application No: 1

Applicant(s) Smt. Anjali Hing

Respondent(s) C.O.I. - Mops

Advocate for the Applicant(s): Miss. Manjuli Dev,
Miss Priyanka Deb

Advocate for the Respondent(s): Rly. Standing Counsel

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed in R.A.R. Rs. 50/- deposited via. IFC-BD No. 396-603757 Dated..... <i>27.5.09</i> <i>27.5.09</i> Dy. Registrar	28.05.2009	Ms. Manjuli Dev, learned counsel appearing for the Applicant, undertakes to replace incomplete page No.15 at Annexure-1 of the O.A. in course of the day. Heard. Issue notice to the Respondents requiring them to file their written statement. Call this matter on 21.07.2009.
<i>27.5.09</i> <i>5 copies of Application</i> with envelope received for issue notice to the Respondents No 1 to 5 Copy served to Rly. Standing Counsel. <i>27.5.09</i>	/bbl	<i>N.D.Dayal</i> Member (A)

4/9
(M.R.Mohanty)
Vice-Chairman

1.6.09
Issue notice to the
Respondents.

*AM
17/6/09*

21.07.2009 None appears for the Applicant nor the Applicant is present. No written statement has yet been filed by the Respondents; despite notice.

In the aforesaid premises, call this matter on 24.08.2009 awaiting written statement from the Respondents.

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


M.K. Chaturvedi
Member(A)

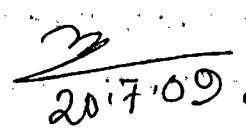

(M.R. Mohanty)
Vice-Chairman

18.6.09 lm

Notice duly served
on Respondent No. 1, 2, 3.

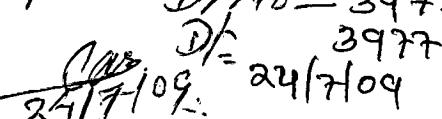

18/6/09

No W/S filed.

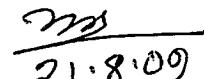

20.7.09

Copies of order
dated 21/7/09
Send to D/Sec.
for issuing to
respondents by
post.

D/No - 3973 to

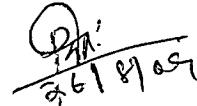

D/No - 3977
25/7/09. 24/7/09

No W/S filed.


21.8.09

K. Das

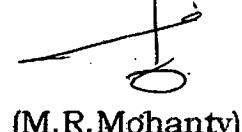
Send copies of this
order to the address
given in O.A.


9/6/09/09

24.08.2009 No written statement has yet been filed by the Respondents. Call this matter on 07.10.2009 awaiting written statement from the Respondents.

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


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Copies of order
dated 24/8/09
Send to D/Sec.
for issuing to
resp. by post.

Cl. D/No- 9939
17/09. D/ 2/9/09.

1.9.09

Mr. S.N. Tamuli,
Advocate filed
Vakalathram for
Respondents No. 4/5/6
at flag. A/1, 2nd floor, 2nd
flr, 13/10/09. 12-12-12
/bb/

No W/S. filed.

3/10/09. No W/S. filed.

19.11.2009

07.10.2009 No written statement has yet been filed by the Respondents in this case.

Call this matter on 19.11.2009 awaiting written statement from the Respondents.

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

4
(M.R.Mohanty)
Vice-Chairman

1.10.09
Send copies of this order to the Respondents.

1.10.09
b/10/09
/pg/

Memo of appearance
has been filed by the
Rly. Counsel Dr. M.C. Sarma
for R. No 3.

BS/6/10/09

Copies of order
dated 7/10/2009 send
to D/Sec. for issuing
to the respondents by
post. D/10/09-12604 to 12608
1lm/

Cl. D/ 12-11-3009
30/10/09. 18-11-09

20.11.09 No W/S filed. W/S filed
W/S filed at page no. 21 to 27/09

19.11.2009 Dr M.C.Sarma, learn'd counsel for the respondents submit that reply will be filed during the course of the day with a copy to the applicant. Rejoinder if any may file in the meantime.

List on 17.12.2009.

10/12/09
(Madan Kr. Chaturvedi)
Member (A)

10/12/09
(Mukesh Kr. Gupta)
Member (J)

17.12.2009 Learned proxy counsel for Applicant seeks time to file rejoinder and allowed.

List the matter on 22.1.2010.

10/12/09
(Madan Kumar Chaturvedi)
Member (A)

10/12/09
(Mukesh Kumar Gupta)
Member (J)

O.A. 97/09

22/01/2010

On the prayer made by learned counsel for the applicant last and final opportunity is granted to file rejoinder within four weeks.

List on 23.2.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

Rejoinder not filed.

ent 16/12/09 Date for adjournment

ent in view, adjourned on 22.2.2010.

No rejoinder filed.

A.O. /pg/

21/1/2010

(Mukesh Kr. Gupta)
Member (J)

22.2.2010

Rejoinder has been filed. Copy served.

22.2.2010

W/S and rejoinder filed.

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

/lm/

22.2.2010

17.03.2010

Due to absence of Ms. M. Dev, learned counsel for applicant, case could not be heard. List the matter on 09.04.2010.

The case is ready for hearing.

18.3.2010

The case is ready for hearing.

/bb/

(Madan Kr. Chaturvedi)
Member (A)

8.4.2010

09.04.2010

Heard learned counsel for the parties. Order reserved.

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

/pb/

O.A.97 of 2009

5

Copy of the Judgement/
Final order dt 21.4.2010
Prepared & Sent to the
Section for issuing to the
Applicant & to counsel for
the both party by D.P.Z.

2009
25.5.2010

21.04.2010 Judgment pronounced in open
Court, Kept in separate sheets. Application
is dismissed.

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

Im

Ram Chary
H.D.W.
Advocate
23.4.10

Recd copy.

R copy
S
29/4/10.

W.M.
29/04/10.
Dr. M.L. Saini
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 97 of 2009

DATE OF DECISION ^{8/} 21.04.2010

Smti Anjali Hira

.....Applicant/s.

Ms.M.Dev

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

- Versus -

N.F.Rly. & Ors

.....Respondent/s

Dr.M.C.Sarma, Railway counsel

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

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

Madan Kumar Chaturvedi
Hon'ble Member (A)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.97 of 2009

Date of Order: This the 21st day of April, 2010

THE HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

THE HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Smti Anjali Hira
Wife of Late Rakeswar Hira
Permanent resident of Nabin Enclave
2nd Floor-D, Zoo Narengi Road
Guwahati-21
P.O: & P.S: Geetanagar
Dist: Kamrup, Assam.

..... Applicant

By Advocate Ms.M.Dev

- versus -

1. The N.F.Railways, represented by the General Manager, Maligaon Guwahati - 781021, Assam.
2. The General Manager (Personnel) N.F. Railways, Maligaon Guwahati -781 021, Assam.
3. The Chief Medical Director N.F. Railways, Maligaon Guwahati -781 021, Assam.
4. Smti Jyotirmoyee Hira Wife of Late Dr. Prafulla Hira
5. Smti Joyshree Hira
D/o Late Dr. Prafulla Hira
Minor represented by her mother
Smti Jyotirmoyee Hira
Both are residents of Nabin Enclave
2nd Floor-D, Zoo Narengi Road
P.O: & P.S: Geeta Nagar
Dist: Guwahati-781 021.

..... Respondents

By Advocate: Dr M.C.Sarma, Railway Counsel

.....



Page 1 of 5

ORDER

M.K.CHATURVEDI, MEMBER (A):

By this O.A. applicant claims that respondent authority be directed to recover 1/3rd of the family pension and DCRG paid to respondent nos.4 & 5 and also to release arrear DCRG which is due and 1/3rd of the same in family pension be paid to applicant.

2. We have heard rival submissions advanced by Ms.M.Dev, learned counsel for applicant and Dr.M.C.Sarma, learned counsel for the respondents.
3. Applicant's son Late Prafulla Hira was Senior Divisional Medical Officer, New Guwahati Railways Poly Clinic. He died intestate on 10.01.2007 leaving behind mother (applicant), wife (respondent no.4), daughter (respondent no.5) and one widowed sister Smti P. Hazarika. After the demise of applicant's son, it is claimed that respondent no.4 did not maintain good relations with the applicant and her widowed sister. Applicant started living with her married daughter on and from 13.02.2007.
4. Applicant thereafter approached respondent nos.1, 2 & 3 for share of retirement benefits of her son, but these were not released in her favour. These were given to respondent no.4. Being aggrieved applicant filed Title Suit No. 47/2007 with an injunction petition under Order 39 Rule 1 and 2 before the Civil Judge (Sr. Division-I) Kamrup for declaration and for permanent injunction restraining defendant 3 to 5 therein (respondents 1, 2 & 3 herein) not to release the amount of deceased employee to the defendant no.2 (respondent nos.4 & 5 herein) and restraining defendant

nos.1 & 2 from withdrawing the retrial and other benefit of the deceased till final decision. Said case was transferred in the Court of Civil Judge (Sr. Division No.2), Kamrup, Guwahati and case was registered as T.S. No.47/2007 and Misc.(J) Case No.45/2007. Interim injunction restraining the railway authorities to release the amount of deceased till final decision was granted. Thereafter Court rejected prayer of granting succession certificate as regards family pension and DCRG as they were property – not a security as such not amenable to the provision of 372 of the Succession Act. In regard to Leave Salary, DLIS, GIS and Provident Fund applicant got 1/3rd share as per succession certificate granted by the Court. Now, the applicant requires 1/3rd share of family pension and DCRG.

5. As per prescription of Rule 74 of the Railway Services (Pension) Rule, 1993, railway servant shall on his initial confirmation in service or post make a nomination in Form 4 or Form 5, as may be appropriate in the circumstances of the case, conferring on one or more persons the right to receive the death-cum-retirement gratuity payable under rule 70. If a railway servant dies while in service, the amount of death gratuity shall be paid to the family in the manner indicated in the table contained in 70(b). Sub-Rule 5 of Rule 70 defines the word 'family' with reference to Rules 71, 73 and 74 in relation to Govt. servant which reads as under:-

- "(i) Wife or wives including judicially separated wife or wives in the case of a male railway servant;
- (i) husband including judicially separated husband in the case of a female railway servant;
- (ii) sons including sep-sons and adopted sons;

- (iii) unmarried daughters including step-daughters and adopted daughters;
- (iv) widowed daughters including step-daughters and adopted daughters;
- (v) Father } including adoptive parents in the case of
- (vii) Mother } individuals whose personal law permits adoption;
- (viii) brothers below the age of eighteen years including step brothers;
- (ix) unmarried sisters and widowed sisters including step sisters;
- (x) married daughters; and
- (xi) children of pre-deceased son."

Rule 71 of said Rules speaks about persons to whom gratuity is payable. It is reproduced herein as under:-

"71. Persons to whom gratuity is payable.-

(1) (a) The gratuity payable under rule 70 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by making a nomination under rule 74;

(b) If there is no such nominations or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below:-

(i) If there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (5) of rule 70 to all such members in equal terms;"

As such, it is clear that amount of gratuity is payable only to the surviving members of the family in clauses 1, 2, 3, & 4. Since applicant is not coming within aforesaid clauses, she is not entitled to receive gratuity.

6. In the context of pension it is pertinent to note the prescription of sub-rule 19(b) of Rule 75, which reads as under:-

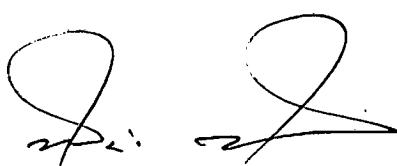
"(b) "family" in relation to railway servant, means-

- (i) wife in the case of a male railway servant or husband in the case of a female railway servant;
- (ii) a judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery.
- (iii) son who has not attained the age of twenty-five years and unmarried daughter who has not attained the age of twenty five years, including such son and daughter born after retirement of adopted legally before retirement but shall not include a son or daughter adopted after retirement;"

7. In view of the above, applicant is not entitled to get share of pension. We find no merit in the O.A.. Accordingly, we dismiss the same.

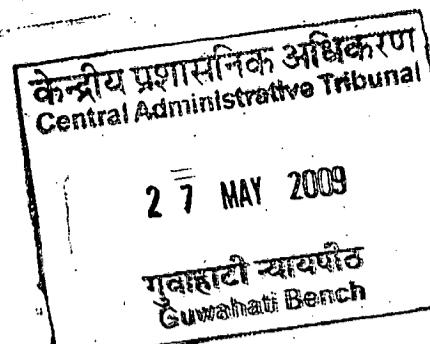
No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

DISTRICT : KAMRUP



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLICATION No.

97 OF 2009

Srimati Anjali Hira,

.....Applicant.....

- VS -

The N.F Railways and others

.... Respondents

SYNOPSIS

The brief fact of the case is that the applicant's son late Dr. Prafulla Hira was Senior Divisional Medical Officer, New Guwahati Railways Poly Clinic under the N.F. Railways and while he was in service he expired on 10.1.07 due to illness, leaving behind him, his old and ailing mother i.e the applicant, his widowed sister and his wife Respondent No.4 and daughter, Respondent No.5 as his dependents. The mother i.e the applicant aged about 82 years and his wife the respondent No.4 was aged about 52 year and his daughter respondent No.5 was aged about 13 years and they were living with the deceased employee and the applicant and her daughter were completely dependent upon him. After the death of the son of the applicant, the Respondent No:4, i.e the daughter-in-law had driven out the applicant from the house of the applicant's son and the applicant was compelled to take shelter in the house of her married daughter. The mother i.e applicant is the class -1 legal heir approached the authority personally and also made representation praying inter-alia for making payment of 1/3rd of all service benefits/retirement benefit including family pension to her as provided under Section 8 of the Hindu Succession Act. The applicant having no source of income approached the authority 1/3rd of the retirement benefit and pension due to her late son. But the respondent authority showing these and that plea directed the applicant to obtain Succession Certificate from the Court. Accordingly the applicant applied before the Hon'ble District Judge, Kamrup, Guwahati for granting Succession Certificate in her favour for 1/3rd of retirement benefit i.e. Leave salary DLIS, Group Insurance death cum retirement Gratuity, Provident Fund and Family pension and the Succession Case was registered as Succession Case No.95/07 and the Hon'ble District Judge after hearing both the parties vide Judgment dated 19.4.2008 granted Succession Certificate for the item i.e. Leave Salary,

27 MAY 2009

গুৱাহাটী ন্যায়পৌঠ

DLIS and Group Insurance and Provident Fund describing what all these items were securities/debts as contemplated in Chapter-XIII of the Indian Succession Act on the ground that Succession Certificate can be issued only debt and securities and as the family pension and death-cum retirement Gratuity were property and as such the Hon'ble District Judge failed to grant Succession Certificate in respect of Family Pension and DCRG. Thereafter the authority also released 1/3rd retiral benefit to the applicant but refused to release the family pension and DCRG to the applicant. And in the meantime despite several approach, the authority had released the family pension and DCRG amount of Rs. 4,00000.00 to the Respondent Nos. 4&5 and there are also arrear amount of DCRG is due from the authority and they are going to release the said amount to the Respondent No.4 and 5 misinterpreting the Order of Hon'ble District Judge and without application of mind.

That the applicant being the mother, the respondent Nos. 4 & 5 being the wife/daughter are class-I legal heir of deceased employee late Dr. Prafulla Hira and the applicant is equally entitled to 1/3rd of all retiral and pensionary benefits along with the wife/daughter of the deceased. The Hon'ble District Judge granted Succession Certificate for retiral amounts which were debt and securities but failed to grant Succession Certificate on the ground that the family pension and DCRG were property and Succession Certificate can be granted in the case of debt/security only and not for property.

The applicant is an aged and ailing lady of 83 years now and suffering from various ailments and under constant treatment of Doctor and she has no other source of income and being a class-1 legal heir of deceased who was male Hindu, and as such she is also entitled for the property i.e family pension and DCRG and also the flat of the deceased and the applicant has no other alternative than to approach this Hon'ble Tribunal for immediate relief. The respondent authorities have adopted indifferent callous and bias attitude towards the legitimate claim of the applicant and they have not assign any reason as to why the pension and DCRG amount in proportion was not sanctioned and has not been granted to the applicant, which is required to be interfered by this Hon'ble Tribunal for the ends of justice.

Date 23.3.2009

Filed By

Monjuli Dev

(Miss Monjuli Dev)
Advocate
Gauhati High Court.

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLICATION No. 97 OF 2009.

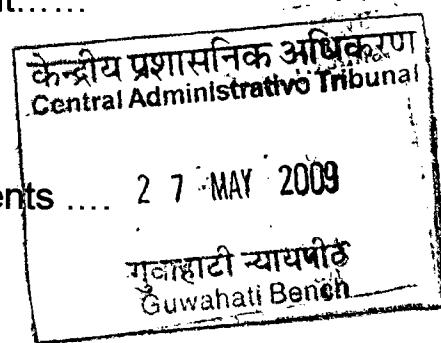
... Smti Anjali Hira

..... Applicant.....

- VS -

The N.F Railways & ors.

.... Respondents 27 MAY 2009



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		15 to 20
4.	Vokalatnama	
5..	Notice	

6. WJS ————— 21 — 27
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23.3.2009

Filed by

Monjuli Dev

(Monjuli Dev)

Advocate

DISTRICT : KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLICATION No. 97 OF 2009

Smti Anjali Hira.

.....Applicant.....
केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

- VS -

The N.F Railways & ors.

.... Respondents
गुवाहाटी न्यायालय
Guwahati Bench

27 MAY 2009

LIST OF DATES

10.1.2007 The applicant's son Dr. Prafulla Hira who was Sr. Divisional Medical Officer of N.F Railways died in harness.

13.2.2007 The applicant was driven out from the house of her son by the Respondent No.4 i.e the daughter-in-law

19.2.2007 The applicant sent representation to the Respondent Nos.1 to 3 by registered post claiming her share of pensionary and other retiral benefit from the authority.

20.2.2007 Succession Case No.95/07 was filed by the applicant for getting Succession Certificate for 1/3rd share of pensionary and other retiral benefit of the deceased Dr. Prafulla Hira.

19.4.2008 Judgment in Succession Case No.95/07 was passed by the Hon'ble District Judge, Kamrup granting Succession Certificate for some amount

10.12.2008 Released some of the amounts of retiral benefit to the applicant

1.2009 Refused to pay the pension and D.C.R.G amount to the applicant

Filed by,

Monjuli Dev

(Miss Monjuli Dev)

Advocate.

*Filed by
The applicant
Fitter
13/3/09
Anjali Hira*

DISTRICT : KAMRUP

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI**
(An application under Section 19 of the Central Administrative Tribunal
Act 1985)

ORIGINAL APPLICATION No. 97 OF 2009

Smti Anjali Hira

.....Applicant Central Administrative Tribunal

- VS -

The N.F.Railways & ors.

.... Respondents

27 MAY 2009

Guwahati Bench

DETAILS OF APPLICANT :

Name of the applicant : Smti Anjali Hira,
Wife of Late Rakeshwar Hira,
Permanent resident of Nabin Enclave 2nd
Floor-D, Zoo Narengi Road, Guwahati-21.
P.O. & P.S. - Geetanagar, Dist - Kamrup,
Assam.

Designation and Office - Legal heir of deceased employee i.e
Prafulla Hira, then D.M.O, New Guwahati
Railways Poly Clinic of N.F. Railways

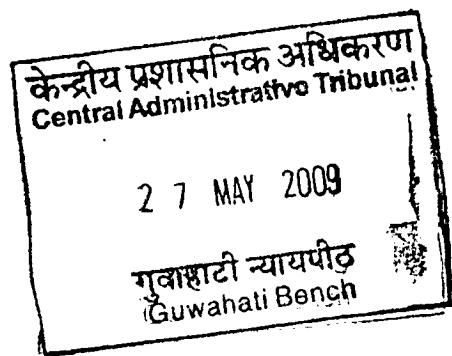
Details of respondents : 1. The N. F. Railways, represented by the
General Manager, Maligaon, Guwahati,
Pin-781011 ,Assam,

2. The General Manager, (Personnel),

*(Rev)
28-3-09.
13/3/09.
S.C.) May.*

N.F. Railways, Maligaon, Guwahati-
781011, Assam.

19/5/2009
R.F.C. of Assam Jiru



3. The Chief Medical Director,
N.F. Railways, Maligaon, Guwahati-
781011, Assam.

4. Smti Jyotirmoyee Hira
Wife of Late Dr. Prafulla Hira.

5. Smti Joyshree Hira
D/o- Late Dr. Prafulla Hira
Minor represented by her mother
Smti Jyotirmoyee Hira.

Both are residents of Nabin Enclave
2nd Floor-D, Zoo Narengi Road, P.O &
P.S-Geeta Nagar, Dist-Guwahati-
781021

- Respondents -

DETAILS OF APPLICATION :

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE:-

The application is made against the illegal action of the respondent authorities denying pension and retiral benefit to the applicants and for directing the Respondent authorities to recover 1/3 of Death-cum Retirement Gratuity (DCRG) already paid to the Respondent No.4 and 5 i.e Rs. 4,00,000/- (Rupees Four Lakh) and also for a direction to make payment of 1/3 of the arrear DCRG which is due from the authority and to pay 1/3 of the family pension .


 Taren Dev
 R.T.S. of Angali Hira

2. JURISDICTION OF THE TRIBUNAL:-

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :-

The applicant declares that the application is within the period of limitation under section 21 of the ~~Administrative Tribunal Act of 1985.~~

केन्द्रीय प्रशासनिक न्यायालय
 Central Administrative Tribunal

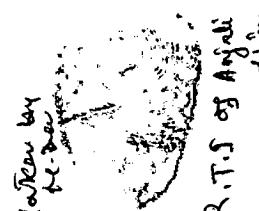
27 MAY 2009

गुवाहाटी न्यायपीठ
 Guwahati Bench

4. FACTS OF THE CASE:-

4.1) That the applicant is a Citizen of India and a permanent resident of Nabin Enclave 2nd Floor-D, Zoo Narengi Road, Guwahati P.O. & P.S. Geetanagar in the District of Kamrup, Assam and as such she is entitled to all the rights, privilege and protection as enshrined under Part – III of the Constitution of India and other Laws of the Country as applicable and amended from time to time.

4.2.) That, the applicant's son Late Dr. Prafulla Hira was Senior Divisional Medical Officer, New Guwahati Railways Poly Clinic N.F. Railways. The applicant's son Dr. Prafulla Hira who died in harness on 10.01.07 due to illness at Down Town Hospital, Guwahati. Before expiry, Dr. Prafulla Hira was living with her mother i.e. the applicant and the respondent No.4 i.e. the wife, the respondent No.5 i.e. daughter and one widowed sister Smti Purnima Hazarika at Nabin Enclave 2nd Floor-D, Zoo Narengi Road, Guwahati P.O. & P.S. Geetanagar in the District of Kamrup, Assam. The father of Dr. Prafulla Hira namely Rakeswar Hira died in the year 1964.



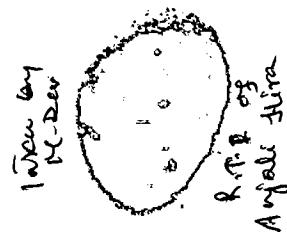
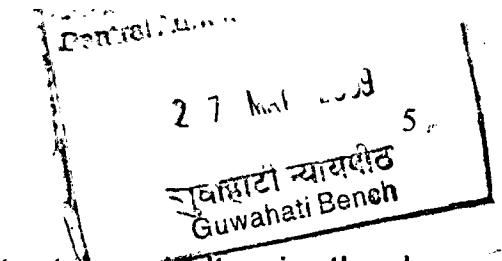
4.3.) That, the son of applicant Dr. Prafulla Hira was in service as Senior. D.M.O. New Guwahati Railway Poly Clinic, N.F. Railways, Head Quarter at Maligaon and he has left some retiral benefit under the respondents No.1 to 3 and all retiral benefit due to late Dr. Prafulla Hira were lying in N.F. Railways .

4.4.) That the husband of the applicant, namely Rakeswar Hira expired when her son Prafulla Hira was minor and the applicant had taken all pain and suffering to born and brought up and for proper education of his son Dr. Prafulla Hira. During life time of Dr. Prafulla Hira, he took all care and attention to his mother and widowed sister namely Purnima Hazarika along with his wife i.e the respondent no.4 and the daughter, the respondent no.5. The deceased Dr. Prafulla Hira in a declaration in his Department , showed his mother, the applicant and sister Purnima Hazarika along with respondent no. 4 & 5 as dependents.

*केन्द्रीय प्रशासनिक अधिकारी विभाग
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Guwahati Bench

That, till the last day of expiry of the applicant's son, the applicant was fully under the care of her son both physically and financially and the applicant was fully dependent upon her son from the date of the appointment of Prafulla Hira in the Railway service. The applicant's son was so much sincere towards the applicant and she did not think of anything during her old days for arranging her livelihood. With the financial aid extended by her son, the applicant managed to run her life with her widowed daughter who was absolutely dependent upon her son .

4.6..) That, surprisingly, after death of the son of the applicant, the daughter-in-law i.e. the respondent no.4 started quarrel with the applicant and her widowed daughter and the situation had gone to worse position and the applicant unable to manage their livelihood. The respondent no.4 has driven the applicant out from the house of the deceased son on 13.02.07. Being insulted like a beggar the applicant



compelled to take shelter in the house of her married daughter on 13.02.07.

4.7..)That, thereafter the applicant approached the respondents no. 1 to 3 for her share of retiral benefit which are due to her son but the respondents no. 1 to 3 showed this and that plea to release the same to the applicant. The applicant in a helpless condition at the age of 82 years with her widowed daughter who were completely dependent upon her son Dr. Prafulla Hira, was running from pillar to post to get her share of pensionery and other retiral benefit from the respondents no. 1 to 3 but no action was taken by the authority. As their refusal to accept any petition, the applicant was compelled to sent representation to respondents no. 1 to 3 on 19.02.07 by Regd. Post.

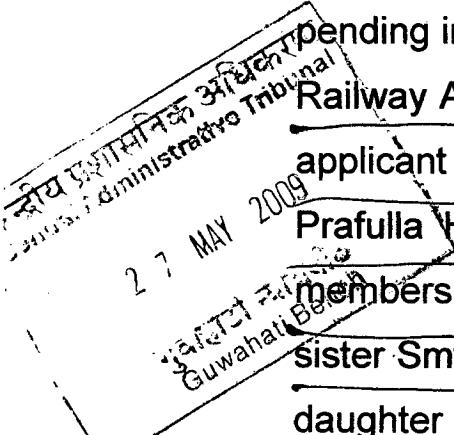
4.8.)That, thereafter, the applicant was given to understand that Succession Certificate was required for the amount and as such the applicant had filed an application for grant of Succession Certificate before the Hon'ble District Judge, Kamrup which was numbered a Succession Case No. 95/07. The applicant, thereafter, came to know that the authority in one hand advised her to obtain Succession Certificate and on the other hand, they had taken all steps to release the whole amount to the respondent no.4.

4.9..)That, having no alternative, the applicant filed a Title Suit being T.S. No. 47/2007 with a injunction petition under Order 39 Rule 1 and 2 before the Civil Judge (Sr. Division-I) Kamrup for declaration and for permanent injunction restraining / prohibiting the defendant No. 3 to 5 (i.e. respondents No. 1, 2 & 3 herein) not to release the amount of the deceased employee namely Dr. Prafulla Hira to the defendant No. 1 & 2 (Respondents No. 4 & 5 herein) and restraining / prohibiting the defendant No. 1 & 2 from withdrawing the retiral and other benefit of the deceased Dr. Prafulla Hira till final decision of the Succession Case No. 95/2007 pending in the Court of District Judge, Kamrup and the said


 R.T.S. of
 Anjali Hira

case was transferred in the Court of Civil Judge (Sr. Division No-2) Kamrup, Guwahati and the case was registered as T.S. No. 47/2007 and Misc (J) Case No. 45/2007 and the Hon'ble Civil Judge (Sr. Division No-2) after hearing the parties, vide order dated 07.03.2007 granted an interim injunction restraining the Railways Authorities to release the amount of the deceased Dr. Prafulla Hira till final decision of Succession case No. 95/2007.

4.10.)That, the respondent no. 4 appeared and contested in the Succession case for herself and for her minor daughter, being her natural guardian and also contested in the Title Suit No. 47/07 and Misc (J) case No. 45/07 filling written statement and objections. The Railway authorities also filed Written statement and objection in the Title Suit

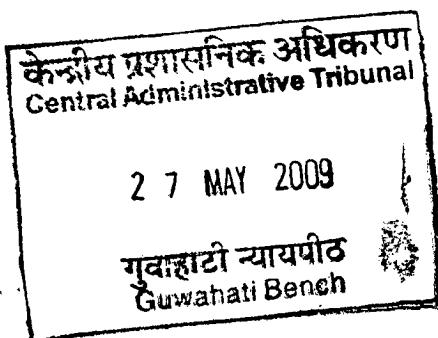

 21 MAY 2009
 Guwahati Bench

pending in the Hon'ble Civil Judge (Sr. Division) No.2, Guwahati and the Railway Authorities admitted in their W.S. and objection petition that the applicant being the mother of the deceased Dr. Prafulla Hira and said Prafulla Hira during his life time on 28.10.06 in a declaration of the members of his family declared his mother Anjali Hira and his widowed sister Smti Purnima Hazarika as his dependents along with his wife and daughter i.e. the respondent no. 4 & 5. It is also stated in the objection and W.S. of the authorities as per family declaration given by Late Dr. Hira, at the time of withdrawal of Provident Fund he had given the name of Anjali Hira as his family member. The Railway Authorities have made statement that they have not released retiral benefit of Late Dr. Prafulla Hira to any body till final disposal of Succession Case No. 95/07. After hearing all parties, the injunction so granted on 07.03.07 was made absolute.

4.11.)That, thereafter the Hon'ble District Judge, Kamrup, Guwahati after hearing the parties vide Judgment dated 19.04.2008 granted Succession Certificate to the applicant on leave salary Rs.3,95,620.00, DLIS Rs. 60,000.00, GIS Rs.1,59,000.00, Provident Fund Rs. 6,50,000.00 respectively as all are debt / securities describing the



schedule as contemplated in Chapter XIII, Part -X of Indian Succession Act. As Succession Certificate can be issued only in respect of debt and securities and nothing else. The Hon'ble Court refused to grant Succession Certificate as regard family pension and Death- cum Retirement Gratuity (DCRG) as they were property – not a security it is not amenable to the provision of 372 of the Succession Act, hence rejected the prayer of granting succession certificate as regard family pension and DCRG.

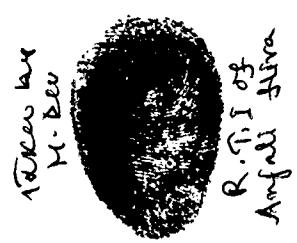


The copy of the judgment dated 19.4.2008 in Succession Case NO 95/07 passed by the District Judge, Kamrup is annexed as Annexure no.-1

4.12.)That, thereafter the authority had released 1/3 (One Third) of leave salary Rs.3,95,620.00, DLIS Rs. 60,000.00, GIS Rs.1,59,000.00, Provident Fund Rs. 6,50,000.00 respectively to the applicant but, refused to pay the pension and DCRG amount as no succession certificate has been granted for these property, but the authority had released the DCRG of Rs.4,00,000.00 to the respondent nos. 4 & 5.

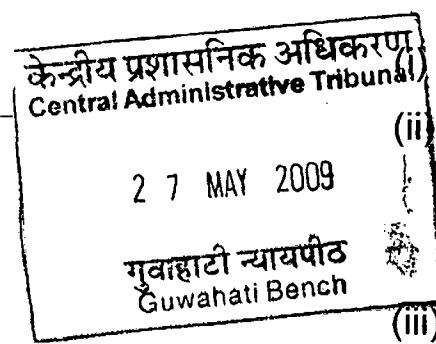
4.13.)That, there is also arrear in DCRG amounts which is yet to be released by the authority but, the authority had released the DCRG to the respondent no. 4 & 5 and refused to give the 1/3 (one third) share of the family pension and DCRG despite the fact that, both are property stated in different judgment of different Courts.

4.14.)That, the applicant is an aged about 83 years and has been seriously suffering from various ailments and before the death of her son she was under care and control of her son Dr. Prafulla Hira and the authority also in their written statement specifically stated that said Prafulla Hira during his life time on 28.10.2006 in a declaration of the members of his family declared that, his mother Anjali Hira and his



widowed sister Smti Purnima Hazarika as his dependents along with his wife and daughter and at the time of withdrawal of provident fund he had given the name of the applicant i.e. his mother as his family member. The applicant has no other source of income and a huge amount have already been spent for her treatment and if the said amount is released to the Respondent No. 4 & 5 only, unless stay is granted, the applicant will suffer irreparable loss and substantial injury.

4.15.) That, the applicant submits that, she being the mother of deceased Dr. Prafulla Hira, who was Hindu by Religion and Under Section 8 of the Hindu Succession Act 1956 property of a Male Hindu dying estate shall devolve firstly upon Class-I Legal heirs to the exclusion of all other legal heirs. Dr. Prafulla Hira, son of the applicant expired on 10.01.07 and he left behind him the applicant and respondents no. 4& 5 are his Class-I Legal heirs and they are entitled for equal shares of his scheduled property, i.e the all retrial benefit due to Prafulla Hira from the Railway Department. The pension and pensionery benefit are the property declared in legal terms and the applicant relied the decisions :-

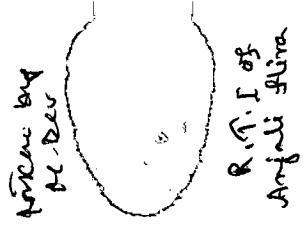


1999 (5) SCC 237 (S.L. Bhatia -Vs – Union of India)

The Hon'ble Gauhati High Court in case of Mustt Amina Khatun & Ors – Vs. – Mustt Jahura Khatun & Ors (Second Appeal No. 74 of 1997)

1971 (2) SCC 330 Deo Kinandan Prasad – Vs – State of Bihar and others.

4.16.) That the applicant submits that it is a fit case where your Lordship would be pleased to pass an interim direction as has been prayed for failing which the applicant will suffer irreparable loss and substantial injury.



4.17..)That the applicant states that she has no source of income and not in a position to earn livelihood at this fag end of her life.

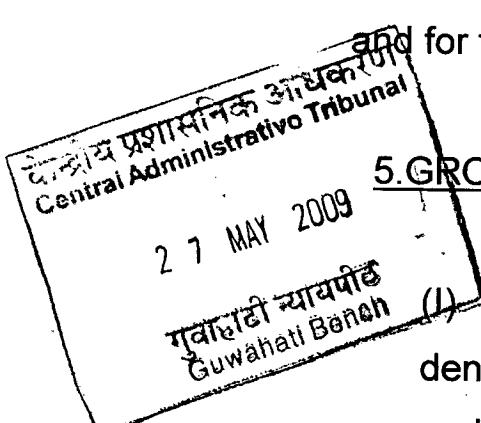
4.18..)That the applicant has no other appropriate, efficacious, alternative remedy available to her and the remedy sought for would be just, adequate and proper if so granted.

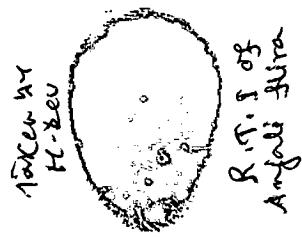
4.19.) That the applicant demanded justice, but the same was denied to her.

4.20.) That the applicant states that the application is filed bonafide and for the interest of Justice.

5.GROUNDS FOR RELIEF WITH LEGAL PROVISION:-

For that the applicant submits that the mother has been denied as Class-I legal heir along with son, daughter and widow under Section-8 of the Hindu Succession Act, 1956,. The Act provides that the property of a Male Hindu dying Estate shall devolve firstly upon Class-I legal heir to the exclusion of all other legal heirs. When there are more than one Class-I legal heirs, the property shall devolve in equal shares among them. Therefore, the applicant is the mother of the deceased is legally entitled for 1/3 (One third) on the properties including pensionary and other retirement benefits due to her deceased son. As such, the act of the Respondent Authorities is not sanctioning and paying 1/3 (One third) of the aforesaid pension and DCRG benefits to the applicant is absolutely illegal, arbitrary and bad in Law, being in gross violation of Section – 8 of the Hindu Succession Act'1956. As such it is a fit case where this Hon'ble Tribunal would be pleased to interfere into the matter and direct the Respondents Authority to recover 1/3 (One third) of DCRG amount and family pension which were paid to the Respondent Nos. 4 &5 and also





direct the Respondent authorities to pay 1/3 of the remaining arrear of DCRG which are due from the authority to the applicant, and sanction and pay 1/3 (One third) of the pension and other dues if any to the applicant.

(II) For that the applicant submits that, the aforesaid action of the authorities in not paying 1/3 (One third) of the pension and DCRG to the applicant although the applicant made such claim before the authority, is not only illegal, arbitrary, discriminatory and bad in law, but is also gross violation of the Principles of Natural Justice, Equity and Good Conscience and Administrative Fairness.

(III) For that the applicant submits that, the aforesaid action of the respondent Authorities depriving the applicant from 1/3 (One third) pensionery and DCRG retirement benefits and giving the whole of the same to the widow /daughter Respondent Nos 4 & 5. is in violation of Article 14, 15, 16, 19 and 21 of the Constitution of India..

(IV) For that the applicant submits that, the respondent authorities have adopted indifferent callous and biased attitude towards the legitimate claim of the applicant, which is required to be interfered by this Hon'ble Tribunal for the ends of Justice.

(V) For that the applicant submits that, *prima facie* she has a good case on merit, balance of convenience and irreparable loss in her favour and if the interim relief as prayed for herein is not granted by the Hon'ble tribunal, the applicant will be highly prejudice, suffer irreparable loss and injury.

(VI) For that the applicant demanded justice, which have been denied to her..

1/2/2009
SC-2009



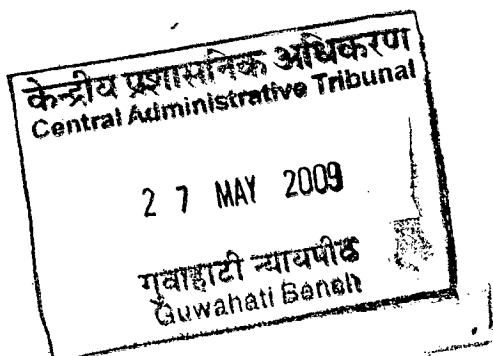
2. DETAILS OF THE REMEDIES EXHAUSTED:-

There is no remedy under the Rule and this Hon'ble Tribunal is the only forum for redressal of the grievances.

3. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:-

The applicant declares that she had approached before the District Judge, Kamrup, Guwahati for obtaining succession Certificate for all the Retiral benefit due to the deceased employee including these family pension and DCRG and the Hon'ble District Judge granted Succession Certificate for other retrial benefit as all those were debt and security Under Chapter XIII Part X of the Indian Succession Act and refused to grant Succession Certificate for Family Pension and DCRG as those were properties and not debt and securities. The applicant has not filed any other cases in any Tribunal/ Court or any Forum after the aforesaid order except this application before this Hon'ble Tribunal.

4. RELIEFS SHOUGHT :



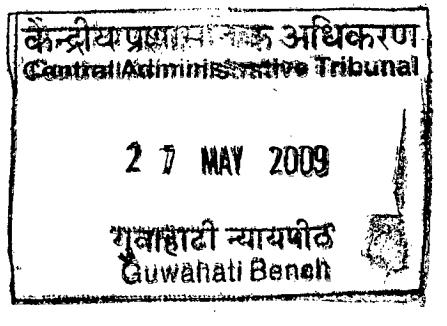
In the premises aforesaid, it therefore prayed that Your Lordships would be pleased to admit this application, call for the record issue notice to the respondents to show cause as to why the relief/reliefs sought in this application shall not be granted and upon hearing the party/parties on the cause /causes that may be shown and on perusal of the records be pleased to grant the following relief to the applicant.

14/5/2009
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(i) That the Respondent authorities be directed/commanded to recover 1/3 of the family pension and DCRG paid to the Respondent No.4 & 5 and also release arrear DCRG which is due and pay 1/3 of the same and family pension to the applicant as the as a Class -1 legal heir of the deceased employee.

ii) To pass such further or other orders as Your Lordship may deem fit and proper.

5. INTERIM RELIEF PRAYED FOR :



Pending disposal of the application, it is most respectfully prayed that Your Lordships will be pleased to pass the following order /orders

In the interim it is also prayed that pending disposal of the Original Application the Hon'ble Tribunal may be pleased to direct the Respondent authorities to pay 1/3rd of DCRG and family pension amount to the applicant by recovering the same from the respondent no.4 & 5 and direct the respondent authorities to pay 1/3rd from the remaining arrear DCRG which is due from the authority for the interest of justice.

10/09
R.C. Dev
R.T.S. of
Anjali Deva

6... That this application is filed through Advocate.

Miss Monjuli Dev,
Miss P.Deb.
Advocate,s

7.. PARTICULARS OF THE IPO :

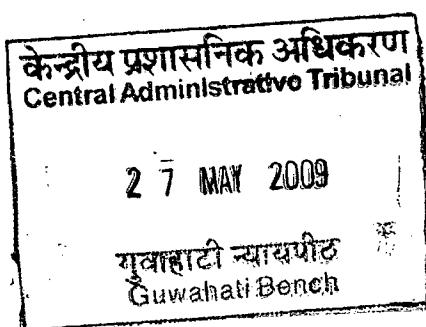
IPO No. 39 G . 403757

Date : 17.3.09

Issued by : GPO., Guwahati for Rs.50/-

8. LIST OF ENCLOSURES :

As per index



VERIFICATION

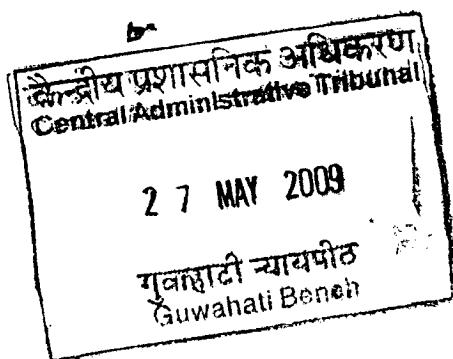
I, Srimati Anjali Hira, wife of Late Rakeshwar Hira, aged above 83 years Resident of Nabin Enclave 2nd floor-D Zoo Narengi Road, Guwahati, P.O & P.S Geetanagar, District- Kamrup, Assam, do hereby verify that the statement made in paragraphs 4.1,4.2,4.3,4.4,4.5,4.6,4.7,4.8,4.9,4.10,4.11,4.12,4.13,4.14,4.4.16,4.17, 4.18,4.19,4.20 are true to my personal Knowledge and also knowledge derived from the record and paragraphs 4.15,5(I),(II),(III),(IV),(V), (VI) are true to my legal advise and I have not suppressed any material facts.

And I put my hand on this verification today 23rd March,2009 at Guwahati.



Rakeshwar
Hira Dev
R.T.I of
Anjali Hira.

Signature of the applicant



दिन की तारीख Date fixed for copy.	स्टाप और फोलोओ की अपेक्षित संस्था सूचित करने तक निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाप और फोलोओ देने वाली तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आगेतक जो गतिशील रहे तो 15- तारीख Date of making over the copy to the applicant, 15-
23-4-08	23-4-08	23-4-08	23-4-08	23-4-08 Annexure - 1

IN THE COURT OF THE DISTRICT JUDGE, KAMRUP :: GUWAHATI.

Present : Sri P. K. Saikia,
Sessions Judge,
Kamrup, Guwahati



Succession Case No. 95/07

Smti Anjali Hira, Petitioner

-Versus-

Smti. Joymati Hira & Ors.

.....Opposite party

APPEARANCES:

For the petitioner : Smti M.Dev., Advocate.
For the opposite party : Mr. B.Ahmed, Advocate
Mr. S.K.Dorai, Advocate

Date of Argument : 26.03.2008, and 09.04.2008.
Date of Judgment : 19.04.2008.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

28 MAY 2009

गुवाहाटी न्यायिक बैठक
Guwahati Bench

JUDGMENT

This proceeding owes its origin to the petition dtd. 26.2.07 , filed by Smti Anjali Hira who sought for an Order from this Court granting her succession certificate in respect of debt and securities, described in the schedule, attached to the petition, aforementioned. The debt and securities, so detailed in the schedule, were reportedly, left by her son Dr. Prafulla Hira who expired at Down Town Hospital, Guwahati on 10.1.07. The above proceeding was numbered as Succession Case No. 95/07. Same was instituted against Ms. Jyotirmay Hira and Smti Jyotsna Hira, wife and minor daughter of late Dr. Prafulla Hira respectively. They were arraigned, herein, as OP No. 1 and OP No. 2. In her application, petitioner has stated that Dr. Hira , her son, was Senior DMO, New Guwahati, Railway poly clinic, NF Railway, Guwahati. She submits that Dr. Hira died intestate. She further submits that Dr. Hira did not make any gift in respect of

Certified to be true
S. S. Smith Esq.
A. A. Smith

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सुचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार था Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
28.4.08	29.4.08	29.4.08	29.4.08	29.4.08

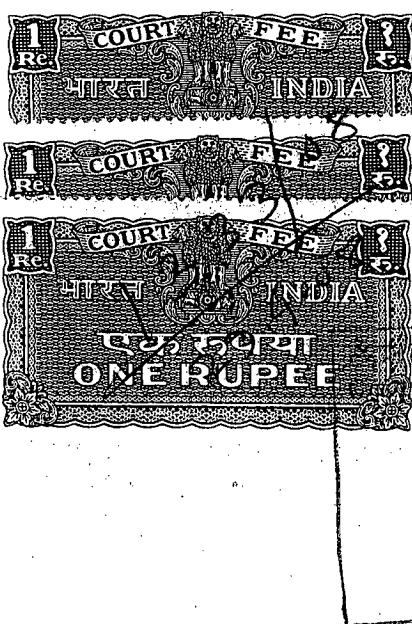
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IN THE COURT OF THE DISTRICT JUDGE, KAMRUP:: GUWAHATI.

Present : Sri P.K.Saikia,
Sessions Judge,
Kamrup, Guwahati



Succession Case No. 95/07



Smti Anjali Hira .

.....Petitioner

Versus-

Smti Joymati Hira & Ors.

.....Opposite party

APPEARANCES:

For the petitioner	Smti M.Dev, Advocate.
For the opposite party	Mr. B.Ahrmed, Advocate.
	Mr. S.K.Deori, Advocate

Date of Argument : 26.03.2008, and 09.04.2008.

Date of Judgment : 19.04.2008.

JUDGMENT

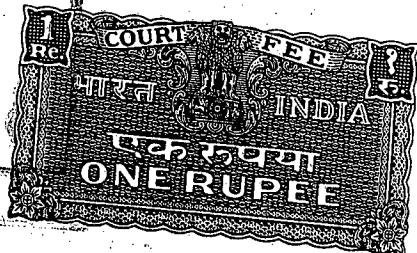
This proceeding owes its origin to the petition dtd. 26.2.07, filed by Smti Anjali Hira who sought for an Order from this Court granting her succession certificate in respect of debt and securities, described in the schedule, attached

Certified to the copy Note of date
to the petition, aforementioned. The debt and securities, so detailed in the schedule, were reportedly, left by her son Dr. Prafulla Hira who expired at Down Town Hospital, Guwahati on 10.1.07. The above proceeding was numbered as Succession Case No. 95/07. Same was instituted against Ms. Jyotirmay Hira and Smti Jyotsna Hira, wife and minor daughter of late Dr. Prafulla Hira respectively. They were arraigned, herein, as OP No. 1 and OP No. 2. In her application,

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27 MAY 2009

गुवाहाटी बायार्स
Guwahati Bench



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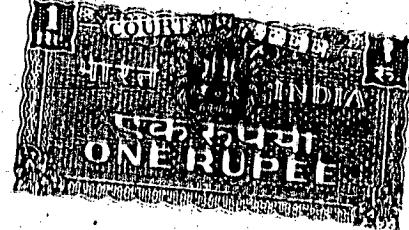
properties, so mentioned in the schedule, aforesaid. She went on to claim that she is an old, sick and infirm lady who depends entirely on the earnings of her son, since deceased. On the above premise, she filed the proceeding----- we have, now, been seized with----- seeking a certificate vis-a-vis properties, aforementioned.

Notice of this proceeding was served upon the opposite parties. Being so, summoned, they entered appearance, and contested all the claims, made by petitioner in her petition, dated 26-2-2007 having filed joint written objection. In their joint written objection, opposite parties' claim that (1) the petition is not maintainable in law and facts, (2) the petition u/s 372 Indian Succession Act 25 has been filed with malafide intention suppressing very many important facts in order to defeat the genuine interest of opposite parties.,

They also contend that (1) the petition is also barred by Railway Establishment Rules as well as Railway Service Pension Rules , 1993, (2) the proceeding in question was filed with a view to grab the property, left by deceased husband of the opposite party No. 1, and that (3) the petitioner cannot be granted succession certificate as prayed for, as, the deceased had left enormous amount of liabilities in different banks and such liabilities need to be liquidated immediately out of amount which the employer of the deceased is likely to release in favour of his legal heirs, once the ongoing legal dispute is over.

OP No.1 and OP No.2 went on alleging that the petitioner had never been a person, dependant on the earning of her son, Dr. Hira. Neither was the sister of deceased a dependant on the income of aforesaid Railway Officer who died on 10-1-2007. Quite contrary to it, the petitioner ekes out her livelihood drawing family pension which falls due to her on the death of her husband who was a Retd. Govt. servant. This apart, Petitioner has one more surviving son who is a successful businessman and he too maintains the petitioner as well as his sister. On the above grounds, the opposite party has requested this Court to dismiss the proceeding in hand instead.

W.M.
19
In order to make out her claim, Petitioner has examined herself as P.W.1. Opposite party too have adduced the evidence of two D.Ws including that of opposite party No.1 herself. Witnesses were cross examined by their



respective adversary. I have heard the arguments advances by the Learned counsels of the parties. The parties have also submitted written argument as well.

Now the point for determination ---- is ----whether the petitioner is entitled to the Succession Certificate in respect of debt and security, detailed in schedule attached to the petition, as prayed for.

DECISION, DISCUSSION AND REASONS FOR DECISION :

We have already found that petitioner has applied for a succession certificate in respect of properties, described in the schedule, annexed with the petition Under Section 372 , the Indian Succession Act. But before we could proceed further, We need to know if all those properties, described in the schedule, are securities/ debts as contemplated in chapter XIII, part X of the Indian Succession Act., for, Succession certificate can be issued only in respect of debt and securities and nothing else----even if same happens to be the property, left by deceased, who died intestate. A bare perusal of provision of Section 370 to 381 of the Indian Succession Act makes it very clear.

On my further perusal of the list of properties , mentioned in the schedule , attached to the petition under section 372 of the Act aforesaid, I have found that item No. 1 , 2 3 and 5 being---Leave Salary ,(Rs.3,95,620.00) ,DLIS(Rs.60,000.00) , GIS(Rs. 1,59,000.00) ,provident fund(6,50,000/-) respectively ----are undoubtedly debt/securities as contemplated in aforesaid provisions of law and succession certificate in respect of such properties can be granted regardless of provisions contained in the Railway Service (Pension) Rules 1993 as well as Railway Establishment Rules and Laws, 2003 and as such, in my opinion, there can not be any impediment in issuing a succession certificate in respect of those securities ---provided ---petitioner *prima facie* satisfies her title to those securities.

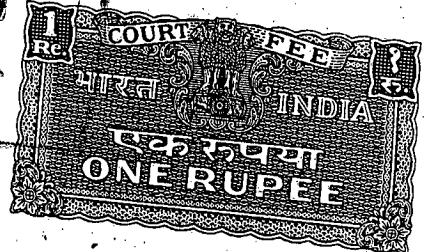
(N) (A) However, In so far item no.6(family pension) is concerned, I have found that such a item is evidently not security. In this regard, we can very profitably peruse the decision of Hon'ble Orissa High Court , rendered in the

RAJIBRUP
District Judge

(2/29/15)

27 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench



3

respective adversary. I have heard the arguments advances by the Learned counsels of the parties. The parties have also submitted written argument as well.

Now the point for determination ---- is ----whether the petitioner is entitled to the Succession Certificate in respect of debt and security, detailed in schedule attached to the petition, as prayed for.

DECISION, DISCUSSION AND REASONS FOR DECISION :

We have already found that petitioner has applied for a succession certificate in respect of properties, described in the schedule, annexed with the petition Under Section 372 , the Indian Succession Act. But before we could proceed further, we need to know if all those properties, described in the schedule, are securities/ debts as contemplated in chapter XIII, part X of the Indian Succession Act., for, Succession certificate can be issued only in respect of debt and securities and nothing else----even if same happens to be the property, left by deceased, who died intestate. A bare perusal of provision of Section 370 to 381 of the Indian Succession Act makes it very clear.

On my further perusal of the list of properties , mentioned in the schedule , attached to the petition under section 372 of the Act aforesaid, I have found that item No. 1 , 2 3 and 5 being--Leave Salary ,(Rs.3,95,620.00) ,DLIS(Rs.60,000.00) , GIS(Rs. 1,59,000.00) ,provident fund 6,50,000/- respectively ----are undoubtedly debt/securities as contemplated in aforesaid provisions of law and succession certificate in respect of such properties can be granted regardless of provisions contained in the Railway Service (Pension) Rules 1993 as well as Railway Establishment Rules and Laws, 2003 and as such, in my opinion, there can not be any impediment in issuing a succession certificate in respect of those securities ---provided ---petitioner prima facie satisfies her title to those securities.



RAMRUP

However, in so far item no.6(family pension) is concerned, I have found that such a item is evidently not security. In this regard, we can very profitably peruse the decision of Hon'ble Orissa High Court . rendered in

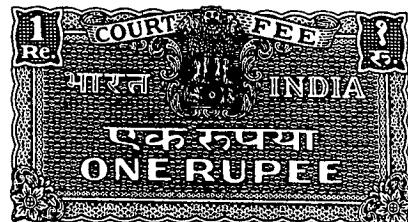
केन्द्रीय प्रशासनिक अधिकारिया
Central Administrative Tribunal

27 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

18

4

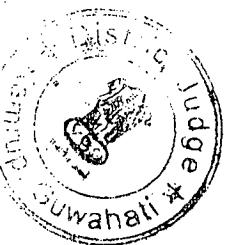


case of Pratima Mehan Pradhan -vs- Damayanti Pradhan, reported in AIR-2003

Ortisa 1. In the aforesaid decision, it has been held that family pension is neither a debt nor a security and therefore grant of succession certificate is not necessary in respect of such property. Being so, property in the item no.6 in the schedule annexed to the petition in question is not a debt /security and as such, succession certificate cannot be granted in respect of said property.

Similarly, property, described in item no.4 is also not a debt/security. Such a property is said to be death cum retirement gratuity (D.C.R.G.). As the name suggests, gratuity is a property---not a security and as such, it is not amenable to the provision of 372, 373 of the Act aforesaid. In this regard, reliance can be placed on the decision of Hon'ble Sind High Court, rendered in the case of Musstt. Anifa Bai & another -vs- Karachi Port Trust, reported in AIR 1929 Sind 177. In the decision aforesaid, it was held that a succession certificate cannot be granted in case of gratuity. Same is more or less in the nature of a sum paid to a particular persons who are not necessarily the heirs of the deceased. Being so, I have no hesitation to hold that succession certificate cannot be issued in respect of property, described in item no.4 in the schedule ,above.

My above conclusion finds more and more strength from the various provisions, contained in Railway Service (Pension) Rules 1993 as well as Railway Establishment Rules and Laws, 2003. The above provisions, amongst other things declare that pension can be granted to surviving heirs only in the certain order of preference, so made in the Pension Rules itself. In such a order of preference, surviving wife of the deceased of a male govt. servant who died intestate come pretty ahead of other legal heirs including his mother. This is emphatic testimony to the fact that family pension is not a security.



District Judge,
DARRANG, GUWAHATI

The above rules also show that death cum retirement gratuity can be given and distributed equally only amongst the surviving husband/wife, sons, unmarried and widowed daughters including step and adopted children. In absence of those persons, above benefits can be given to the other family members, such as, father, mother, married daughter. We have already found that apart from his mother, deceased had admittedly left behind his wife and a minor daughter as his surviving class I heirs. Thus, the Rules, above, too, come in way of petitioner's getting any share in the property, mentioned in item No.4 of the

29/7

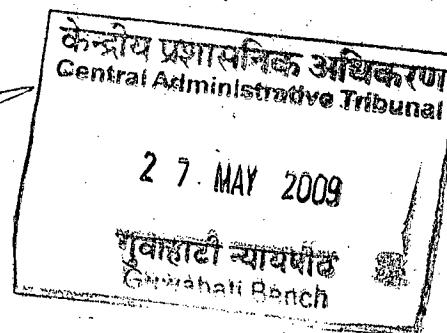
schedule, attached to her petition. On this count too, the claim of petitioner that she should be granted a certificate in respect of aforesaid property needs to be rejected.

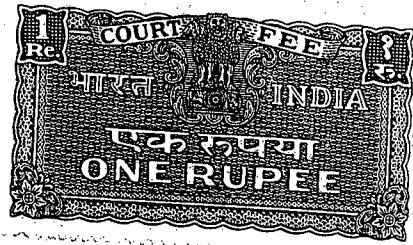
We have already found that there is no dispute at bar that deceased died leaving petitioner, his wife and a minor daughter as his surviving class I heirs. Again, there is no quarrel that deceased died intestate without leaving any will or gift in respect of the aforesaid properties. Being so, in my considered opinion, petitioner is entitled to claim one third of the total securities, specified in clause no. 1 2 3 & 5 of the schedule, aforementioned. I have also found that ----her share in such securities comes to Rs.4,21,540/-only(Four lakhs twenty thousand, five hundred and forty) In that view of the matter, petitioner is entitled to receive a succession certificate for Rs.4,21,540/-only and such certificate needs to be issued in her name regardless of her dependency or otherwise on her other surviving heirs.

Here, it needs to be mentioned that Opposite Party no.1 has claimed that during the life time of her husband----he had secured huge amount of loans from SBI as well as ICICI Bank. According to her, an amount as enormous as Rs. 8,91,758.94 (Eight lakhs ninety one thousand seven hundred fifty eight and ninety four paise) remains outstanding on 28.2.07 as against the loan which her husband obtained from SBI during his life time. Moreover, the outstanding dues against the loan, obtained from ICICI Bank stands at Rs. 2,27,240(Rupees. Two lakh Twenty Seven Thousand Two hundred and Forty) only on 15-3-2008.

The various materials on record, I find, clearly confirm such claims, made by the Opposite Parties. The opposite party, therefore, urges this Court that in the event of a Succession Certificate, being granted to the petitioner, she should be asked to contribute an amount, proportionate to her liabilities in those banks, towards liquidation of the aforesaid loans. However, such a plea is untenable in the face of the fact that this Court exercising powers under the Indian Succession Act cannot act as the way as desired by opposite party. Thus, I have no option but to reject such a plea.

In result, it is ordered that a succession certificate for Rs.4,21,540/- be issued to the petitioner on her paying requisite court fees.





Judgment is delivered in open Court on this day 19th of April, 2008, and is given under my hand and seal. The parties however, are left to bear their own cost.

Dictated by me
Sessions Judge,
Kamrup, Guwahati.

Sof. P.K. Sankia
19/4/08
District Judge
KAMRUP, GUWAHATI

Sof. P.K. Sankia
19/4/08
Sessions Judge,
Kamrup, Guwahati.

District Judge,
KAMRUP, GUWAHATI

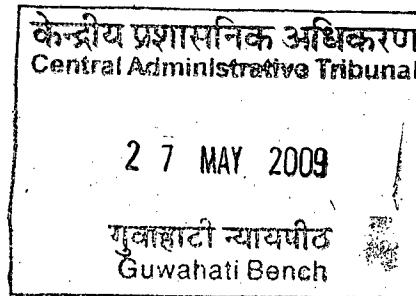


Comparing Assistant

29/4/08
District & Session Judge
Kamrup, Guwahati

Certified True Copy

Jyoti Singh Tharakar
Sheristadar
District & Session Judge
Kamrup, Guwahati 29/4/08



20 NOV 2009
20/11/09

Guwahati Bench
गुवाहाटी न्यायपीठ

-21-

File in Court O. 19/11/09

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

O.A.97/2009

Smt. Anjali Hira ... Applicant
Versus
General Manager, N.F.Railway & Others-Respondents

INDEX

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2.	Verification	... 6.

Filed by

Guwahati
19/11/2009
(Dr. M. C. Sarma)
Railway Advocate.

Dr. M. C. Sarma
M.Com, Ph.D., LL.B.
Advocate, Gauhati High Court.
Railway Advocate, Central Administrative Tribunal,
Guwahati

20 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.97 OF 2009

Smt. Anjali Hira ... Applicant
Versus
General Manager, N.F.Railway & Others Respondents.

AND

IN THE MATTER OF

Written statements on behalf of respondents.

The answering respondents respectfully SHEWETH :

1. That they have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations made in the application are hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a just and fair decision.

3. That the respondents beg to respectfully submit that the application suffers from want of a valid cause of action and hence merits dismissal on this count alone. The applicant has admitted in paragraph 4.12 of the O.A. that respondents have fully paid 1/3rd of her dues to the extent of Rs.4,21,540/- as per decision of the Hon'ble District Judge, Kamrup in the succession case No.95/07, copy of which has been included as Annexure I of the O.A. In this connection, the decision of the District Judge as indicated in page 5 of the judgment is quoted below:-

"We have already found that there is no dispute at bar that the deceased died leaving petitioner, his wife, and a minor daughter as his surviving class I heirs. Again, there is no quarrel that deceased died intestate without leaving any will or gift in respect of the aforesaid properties. Being so, in my considered opinion, petitioner is entitled to claim one third of the

Filed by
Kum
Dr. M. C. Sarm

19/11/2009

M.Com, Ph.D., LL.B.
Advocate, Gauhati High Court
Railway Advocate, Central Administrative Tribunal
Guwahati

Dr. M. C. Sarm
Advocate, Gauhati High Court
Railway Advocate, Central Administrative Tribunal
Guwahati

✓
Pradeep Kumar Singh
by Chief Personnel Officer / *6/6/09*
N.F. Railway, Maitibgaon

27 NOV 2009

(2)

Guwahati Bench
गुवाहाटी न्यायपीठ

total securities, specified in clause No.1 2 3 & 5 of the schedule, aforementioned. I have also found that - her share in such securities comes to Rs.4,21,540/- (four lakhs twenty thousand five hundred and forty). In that view of the matter petitioner is entitled to receive a succession certificate for Rs.4,21,540/- only and such certificate needs to be issued in her name regardless of her dependency or otherwise on her other surviving heirs"

The respondents beg to submit that all the dues of the applicant to which she is entitled as per the judgment of the succession case have been paid. Payment of family pension and of gratuity is made as per provisions of the Railway Services (Pension) Rules, 1993 which are being carefully followed in the case of the family members of the deceased Railway servant.

3. Parawise comments:

3.1. That as regards paragraphs No.4.1, 4.2 and 4.3 the respondents have no comments to offer as they describe self-evident facts about the applicant's son and family and his service life.

3.2. That as regards paragraphs 4.4 and 4.5, the respondents beg to state that the declaration of the applicant and his sister as dependents by the deceased employee would not automatically entitle them to share in the final settlement of the employee as he had not left any will or gift in their favour nor did the deceased employee nominate his mother or his sister to receive the final settlement dues when he was in service as per rule.

3.3 That as regards paragraphs 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11, the respondents beg to state that on receipt of the order of injunction against release of the final settlement dues as per Railway rules the respondents withheld release of the same until disposal of the Succession case by the Hon'ble District Judge.

3.4. That as regards paragraph 4.12, the respondents beg to state that as per succession certificate issued by the District Judge in Succession case No.95/07, sum of Rs.4,21,540/-, being one-third of leave salary of Rs.3,95,620/-, DLIS of Rs.60,000/-, GIS of Rs.1,59,000/- and providend fund of Rs.6,50,000/- was paid to the applicant as admitted in paragraph 4.12.

Pradeep Kumar Singh
Dr. Chief Personnel Officer / Group
N.F. Railway, Morigaon

(3)

3.5 That as regards paragraph 4.13, the respondents beg to state that the contention of the applicant as regards payment to her of a share in the family pension and Death Cum Retirement Gratuity has been clearly rejected by the Hon'ble District Judge, Kamrup in his judgment dated 19.04. 2008 in the Succession case No. 95/07, copy of which has found place as Annexure I of the O.A. For the convenience of the Hon'ble Tribunal, an abstract of the "Decision, Discussion and Reasons for Decision" from page 3 of the judgment is reproduced below:-

"...., in so far item no.6(family pension), I have found that such a item is evidently not security. In this regard, we can very profitably peruse the decision of Hon'ble Orissa High Court rendered in the case of Pratima Mohan Pradhan -vs- Damayanti Pradhan, reported in AIR-2003 Orissa 1. In the aforesaid decision, it has been held that family pension is neither a debt nor a security and therefore grant of succession certificate is not necessary in respect of such property. Being so, property in the item No.6 in the schedule annexed to the petition in question is not a debt/security and as such, succession certificate cannot be granted in respect of the said property.

Similarly, property described in item no.4 is also not a debt/security. Such a property is said to be death cum retirement gratuity (D.C.R.G.). As the name suggests, gratuity is a property -- not a security and as such, it is not amenable to the provisions of 372,373 of the Act aforesaid. In this regard, reliance can be placed on the decision of Hon'ble Sind High Court, rendered in the case of Musstt. Anifa Bai & another -vs- Karachi Port Trust, reported in AIR 1929 Sind 177. In the decision aforesaid, it was held that a succession certificate cannot be granted in case of gratuity. Same is more or less in the nature of a sum paid to a particular person who are not necessarily the heirs of the deceased. Being so, I have no hesitation to hold that succession certificate cannot be issued in respect of property described in item no.4 in the schedule above.

My above conclusion find more and more strength from the various provisions contained in Railway Service (Pension) Rules, 1993 as well as Railway Establishment Rules and Laws, 2003. The above provisions, among other things declare that pension can be granted to surviving heirs only in the certain order of preference, so made in the Pension Rules itself. In such a order of preference, surviving wife of the deceased of a male govt. servant who died intestate come pretty ahead of other legal heirs including his mother. This is emphatic testimony to the fact that family pension is not a security.

The above rules also show that death cum retirement gratuity can be given and distributed equally only amongst the surviving husband/wife, sons, unmarried and widowed daughters including step and adopted children. In absence of those persons, above benefits can be given to the other family members, such as father, mother, married daughter. We have already found that apart from his mother, deceased had admittedly left behind his wife and a minor daughter as his surviving class I heirs. Thus, the Rules above, too come in the way of petitioner's getting any share in the property

Gratuity under Leigh
/ Court Personnel Office /
M.F. Railway, Mysore.

mentioned in item No.4 of the schedule attached to her petition. On this count too, the claim of petitioner that she should be granted a certificate in respect of aforesaid property needs to be rejected".

It is therefore respectfully submitted that the applicant is not entitled to receive any part of the family pension and D.C.R.G. (i.e., Death cum Retirement Gratuity) not only as per judgment of the Hon'ble District Judge, Kamrup in Succession case No.95/07 but also as ~~is~~ per the provisions of the Railway Services (Pension) Rules-1993. The relevant provisions in regard to Family Pension are in Rule 75 of the Railway Services (Pension) Rules-1993 and for this purpose "Family" has been clearly described in Sub-rule 19(b) of these rules at page 37 as follows:-

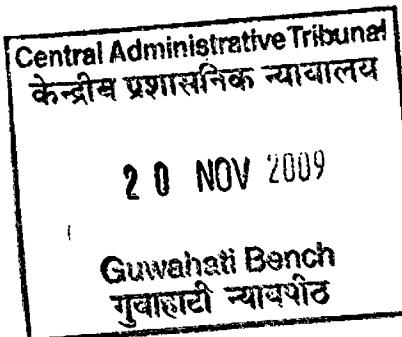
19(b) "Family", in relation to railway servant, means -

- (i) Wife in the case of a male railway servant or husband in the case of a female railway servant;
- (ii) judicially separated wife or husband, such separation not being granted on the ground of adultery and the person surviving was not held guilty of committing adultery ;
- (iii) son who has not attained the age of twenty-five years and unmarried daughter who has not attained the age of twenty five years, including such son and daughter born after retirement or adopted legally before retirement but shall not include a son or daughter adopted after retirement.

The respondents also beg to clarify that Gratuity is payable to a railway servant as per provisions of Rule 71 of the Railway Services (Pension) Rules, 1993 reproduced below:-

71. Persons to whom gratuity is payable -

- (1) (a) The gratuity payable under rule 70 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by making a nomination under rule 74;
- (b) if there is no such nominations or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below:-
 - (i) if there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (5) of rule 70, to all such members in equal shares;



(5)

(ii) if there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in clauses (v),(vi),(vii),(viii),(ix),(x) and (xi) of sub-rule (5) of rule 70 to all such members in equal shares.

In this connection, it is submitted that sub-rule (5) of rule 70 describes "family" in clauses (i),(ii),(iii) and (iv) as follows:-

- (i) Wife or wives including judicially separated wife or wives in the case of a male railway servant;
- (ii) husband including judicially separated husband in the case of a female railway servant;
- (iii) sons including step-sons and adopted sons;
- (iv) unmarried daughters including step-daughters and adopted daughters;

It is submitted that late Dr.Hira, the son of the present applicant, did not make any nomination under Rule 74 of the Railway Services (Pension) Rules, 1993 and hence the gratuity due was paid to his family in terms of rule 71, sub-rule (1)(b).

Clearly therefore, the applicant is not entitled to receive family pension and Gratuity.

3.6. That as regards paragraphs 4.14, 4.15, 4.16, 4.17, 4.18, 4.19 and 4.20, the respondents beg to state that as per provisions of the relevant Succession Law and of the Railway Services (Pension) Rules, 1993 and based on the judgment dated 19.04.2008 by the Hon'ble District Judge, Kamrup in Succession case No.95/07 the applicant has been paid a sum of Rs.4,21,540/- as specified in the succession certificate. The respondents regret to state that the applicant is not entitled to any other dues of the deceased officer, whose wife has been paid the gratuity due on the case, apart from family pension due as per provisions of law.

Under the circumstances, the respondents beg to submit that as whatever was due to the applicant has been paid to the applicant as per the provisions of law and as no other dues are payable to the applicant at this stage, and as no cause of action exists, the O.A. may be dismissed with costs.

And for this act of kindness as in duty bound the respondents shall ever pray.

Placed by
Dy. Joint Secretary
Dy. Joint Personnel Officer
Ganguly
N.F. Railway, Mailager

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

(6)

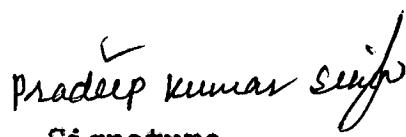
20 NOV 2009

Guwahati Bench
গুৱাহাটী বৰ্ষাধৰী

VERIFICATION

I, Shri Pradeep Kumar Singh, son of Bhup Lal Singh, aged about 43 years, at present working as Asst. Manager, N.F.Railway, Maligaon, do hereby solemnly affirm that the statements made in paragraphs 1 to 3 are true to the best of my knowledge and derived from records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 16th day of November, 2009.


Signature

Designation

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

FORM OF THE VAKALATHNAMA

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI

O.A/R/A/CP/M/A/P/T/ 97 / No. of 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

25 AUG 2009
22/8/09

File in Court on 20/8/09 Smt. Anjali Hirsa..... Applicant(s)

-VS-

Court Office Union of India & Others..... Respondent(s)

I..... Joyshree Hirsa & Joyshree Hirsa. Applicant
No...../Respondent No. 4 & 5 in the above application/Petition do hereby
appoint and Shri S. N. Tamuli

Advocate/s
to appear, plead and act for me/us in the above application/petition and to conduct
and prosecute all proceedings that may be taken in respect thereof including
Contempt of Court petitions and Review applications arising therefrom and
applications for return of documents, enter into compromise and to draw any
moneys payable to me/us in the said proceeding.

(1) ✓

Joyshree Hirsa.

(2) ✓

Joyshree Hirsa.

Place : Guwahati

Date : 22/8/09

For Respondent No 5.

Joyshree Hirsa

Signature of the Party

'Accepted'

*Santosh Nandan Tamuli
22/8/09
Signature with date
(Name of the Advocate)*

Executed in my presence
#Signature with date
(Name and Designation)

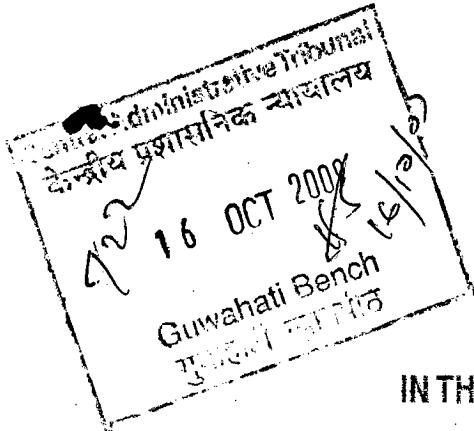
Name & address of the
Advocate for Service.

SANTOSH NANDAN TAMULI
C/O NANDA KANAN, H/No 86
ASEB Road, Ulubari
Guwahati - 781001 (ASSAM)

The following Certification to be given when the party is unacquainted with the
language of the Vakalath or is blind or illiterate :

The contents of the Vakalath were truly and audibly read over/translated into
Language known to the party executing the Vakalath and he
seems to have understood the same.

Signature with date
(Name and Designation)



FORM No.12
(see Rule 67)

VAKALATNAMA



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: GUWAHATI

OA No.97/2009

Smt. Anjali Hira. Applicant

-Vs-

U.O.I & Ors Respondent

I/We P. K. Singh, Dy. Chief Personnel Officer/Gaz, N. F. Railway, Mafgaon, Applicant No. / Respondent No.3 all for all in the above Application/Petition do hereby appoint and retain Dr. M. C. Sharma, Railway Advocate, CAT/Guwahati to appear, plead and act for me/us in the above application/ petition and to conduct and prosecute all proceedings that may be taken in respect thereof including Contempt of Court petitions and Review Applications arising therefrom and applications for return of documents, enter into compromise and to draw any moneys payable to me/us in the said proceeding.

Place:

Pradeep Kumar Singh
Dy. Chief Personnel Officer/Gaz
Signature of the party, Mafgaon
"Accepted" Guwahati-11

Date:

Accepted.

Pradeep Kumar Singh

08/10/09

Dr. M. C. Sharma

Signature with date
(Name of the Advocate)

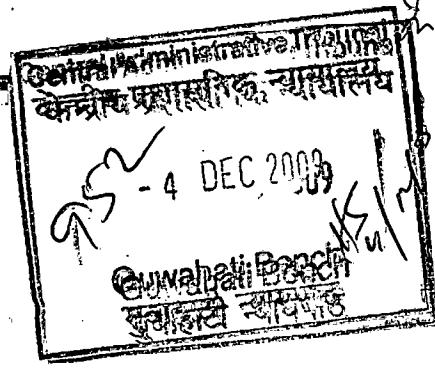
Executed in my presence
*Signature with date
(Name and Designation)

Name and Address of the
Advocate for service.

* The following certification to be given when the party is unacquainted with the language of the Vakalatnama or is blind or illiterate:

The contents of the Vakalatnama were truly audibly read over/translated into language known to the party executing the Vakalatnama and he seems to have understood the same.

Signature with date
(Name and Designation)



In the Central Administrative Tribunal,
Guwahati Bench.

CA. 97 of 2009

Smt. Arpali Hira

applicant

as
General Manager, N.F.Rly.
and others.

Respondent.

Smt. M. Dev, Advocate, Guwahati High Court.

Madam,

Copy of W.S. filed on the
above-mentioned matter filed in the Hon'ble
Tribunal on 19/11/2009 is enclosed
for your kind perusal.

Kindly acknowledge.

Thank you,

Yours faithfully,

Memo

Dr. M. C. Sarma.
Rly. Advocate

Dated - 19/11/2009

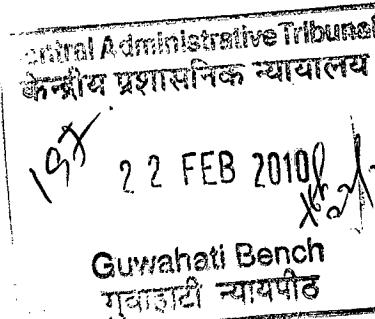
Received Copy

Arpali Hira -

3.12.09

for Ms. M. Dev.

DISTRICT : KAMRUP



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

Filed by
The Applicant
Smti Anjali Hira
R.J. of Anjali Hira
Entered by Re-Per
Through Surjya
Advocate 27.2.10



ORIGINAL APPLICATION No. 97 OF 2009

Smti Anjali Hira

.....Applicant.....

—VS—

The N.F.Railways & ors.

.... Respondents

—AND—

IN THE MATTER OF

A rejoinder of the applicant against the
written statement filed by the respondents.

(Re-joinder)

I, Smti Anjali Hira, wife of Late Rakeswar Hira aged about 84 years, resident of Nabin Enclave, 2nd Floor-D, Zoo Narengi Road, Guwahati-21.P.O. & P.S. - Geetanagar, Dist - Kamrup, Assam do here by solemnly affirm and say as follows.

1. That I am the applicant in the instant appeal and a copy of written statement has been served upon my counsel and after going through the same, I understood the contents thereof
2. That the statement/allegation which are not specifically admitted herein after shall deem to be denied by the deponent.
3. That as regard the statement made in paragraphs 3 of the written statement, the deponent hereby denies the correctness of the same and state that the respondent has miss-read and misunderstood the judgment passed in Succession Case no.95/07 and paragraph 4.12 of the O.A. The Hon'ble District Judge, Kamrup vide judgment

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dated 19.4.2008 specifically mentioned about securities/debt in "chapter-XIII part X of the Indian Succession Act," for, succession Certificate can be issued only in respect of debt and securities and nothing else--- even if ,same happens ,to be the property , left by the deceased , who died in intestate .AS such the Hon'le District Judge, Kamrup issued Succession Certificate in respect of leave salary DLIS, GIS, Provided Fund .As the pension Death Come Retirement Gratuity are properties and no Succession Certificate can be granted as regard property hence refused to issue Succession Certificate in regard pension and DCRG amount. Therefore, the applicant filed the O.A for release of pension and DCRG amount which have been refused by the respondent 1 to 3. In catena of cases the Hon'ble High Court and Apex-Court also decided that pension and gratuity are the personal property of the deceased employee and same should be distributed amongst the family member as per their Personal Law of the employee and any Rules can not override the principles and provision of laid down under the Personal Law .

4. That as regard the statement made in paragraph 3.1 of the written statement, the deponent re-irritates and re-affirms her earlier statements made in paragraphs 4.1 ,4.2, 4.3 of the Original Application .

5. That as regard the statement made in paragraph 3.2 of the written statement, the deponent, hereby denies the correctness of the same and re-irritates and re-affirms her earlier statements made in paragraphs 4.4 & 4.5 of the Original Application. The deponent states that the applicant being the Class-1 heir of a Male Hindu Family dying Estate is equally entitled for the property left by the deceased along with other legal heirs and for that no gift, will or nomination is necessary for getting right over the property of a Male Hindu dying family dying estate. Only making a nominee can not claim the whole property of a deceased .The nominee is only meant for the distribution of the property amongst the legal hires of the deceased and any Rules can not over ride the principles and provision laid down under the Personal law.

The copy of the declaration filed by the deceased before the respondents on 30.10.2008 is annexed as Annexure-i

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6. That as regard the statement made in paragraph 3.3, 3.4 of the written statements, the deponent re-irritates and re-affirms her earlier statement made in paragraphs 4.6, 4.7, 4.8, 4.9, 4.10, 4.11 & 4.12 of the Original Application.

7. That as regard the statements made in paragraph 3.5, & 3.6 of the written statement the deponent, re-irritates and re-affirms her earlier statement made in paragraphs 3 of this re-joinder and 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20 of the Original Application.

8. That, the applicant submits that, she being the mother of deceased Dr. Prafulla Hira, who was Hindu by Religion and Under Section 8 of the Hindu Succession Act 1956 property of a Male Hindu dying estate shall devolve firstly upon Class-I Legal heirs to the exclusion of all other legal heirs. Dr. Prafulla Hira, son of the applicant expired on 10.01.07 and he left behind him the applicant and respondents no. 4 & 5 are his Class-I Legal heirs and they are entitled for equal shares of his scheduled property, i.e the all retrial benefit due to Prafulla Hira from the Railway Department. The pension and pensionery benefit are the property declared in legal terms and the applicant relied the decisions :-

- (i) 1999 (5) SCC 237 (S.L. Bhatia -Vs – Union of India)
- (ii) The Hon'ble Gauhati High Court in case of Mustt Amina Khatun & Ors – Vs. – Mustt Jahura Khatun & Ors (Second Appeal No. 74 of 1997)
- (iii) 1971 (2) SCC 330 Deo Kinandan Prasad – Vs – State of Bihar and others.

The applicant therefore is entitled for equal share of Pension and Pensionary benift of DCRG as Class -1 legal heir of the deceased



VERIFICATION

I, Smati Anjali Hira, wife of Late Rakeswar Hira, aged above 83 years Resident of Nabin Enclave 2nd floor-D Zoo Narengi Road, Guwahati, P.O & P.S Geetanagar, District- Kamrup, Assam, do hereby verify that the statement made in paragraphs 1,2,3,(Part) ,4,5 (Part),6,& 7 are true to my personal Knowledge and also knowledge derived from the record and paragraphs 3 (part),5 (Part)& 8 are true to my legal advise and I have not suppressed any material facts.

And I put my hand on this verification today 22th February ,2010 at Guwahati.

RTI of Anjali Hira
written by M-Deo

Signature of the applicant

Declaration of the members of the family of Railway Employees 2008

1. Name of the Employee : DR. PRAFULLA HIRA
2. Designation : SR. DMO / NGC
3. Pay and scale of pay : Rs 15100/-
4. Name of the office and Section : NEW GOURAHTARI RLY HOSPITAL / K.F. RLY / NGC
5. Date of Appointment : :- 1976
6. Father alive or not : :- NOT

N.B:- Name of the judicially separated wife/husband if any should also be declared in with remarks.

1. In the last column judicially separated.
2. In the responsibility of the staff concerned to keep the declaration upto date by intimating the respective Head of office the particulars of any subsequent changes in the family members.
3. I declared that the above particulars given me is correct and i am liable to be taken under DAR if the information is found to be incorrect.

Full signature of the employee John M. [Signature]

Full signature of the employee: Robert W. Brown

Designation Sy. D.M. & S. M. DE BLY (S)

Office Dr. Chi Grecu & T

Sección medicinal

Date 28-1-62 cont

We certify that to the best of our knowledge the parties as shown above are residing with him/her and the relationship mentioned against each and correct. *[Signature]*

Signature..... *John*

Designation: Scientific Form

Section/Office

dated _____ by _____

in the following manner:

Signature: Bob Date: 1/10/00 Exempt (if applicable)

Desimata 30/11/1954

Section / Office **PRINTER** **RELEIF**

Section / Office..... *WFO* *WFO* *WFO*

Date _____ *Exhibit*

Signature of the subordinator

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17/1/2018 Counter signature of controlling officer