

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This 25th day of February 2020

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Original Application No. 330/691/2017

Smt. Hirawati Devi, W/o Late Tulsi, Aged 63 years, R/o – Village –
Bardiha, Post – Manti Gaon, District - Chandauli

.....Applicant

By Advocate: Shri O. P. Gupta

Versus

1. Union of India through the General Manager, Northern Railway, Lucknow.
2. Divisional Railway Manager, Northern Railway, Lucknow.

.....Respondents

By Advocate: Ms. Shruti Malviya

ORDER

- 1) The present O.A. has been filed by Hirawati Devi seeking the following reliefs:-
 - (i) to quash the impugned rejection order dated 03.11.2014 (Annexure No. A-4) with the further direction to the respondents to grant family pension to the applicant from the date of death of her husband i.e. from the month of April 1988.
 - (ii) To direct the respondents to pay arrears of family pension along with 12% interest.
2. Case of applicant Hirawati Devi is that her husband was appointed as C.P.C Gangman under respondent No.2

and was granted temporary status w.e.f. 15.4.1981. Her husband Tulsi during his service died on 24.3.1988 and she being the widow of deceased Tulsi was disbursed D.C.R.G. and leave encashment but despite representations has not been granted family pension which she is entitled to under Rule 75 (2) read with Rule 75 (19) of Railway Services (Pension) Rules 1993. Hence the present O.A. seeking family pension which was denied to her vide impugned order dated 03.11.2014 (Annexure A-4).

3. In the counter affidavit filed by respondents, the averment made in the O.A. that applicant was granted temporary status w.e.f. 15.4.1981 and had completed about 7 years of temporary service before his death has not been denied by the respondents. However, respondents submit that the impugned order dated 03.11.2014 is absolutely legal, just and reasonable and in accordance with law and the O.A. deserves to be dismissed.

4. It has been argued by learned counsel for applicant that the documents on record show that deceased Tulsi was a CPC Gangman in the employment of respondents department and therefore, applicant is entitled to family pension as per Rule 75 (2) read with Rule 75 (19) of Railway Services (Pension) Rules 1993.

5. Rule 75 (2) lays down that family of Railway servant who has died after completion of one year of continuous service would be entitled to family pension and Rule 75 (19) lays down that 'continuous service' means service rendered in temporary or permanent capacity in pensionable establishment and, therefore, submitted by learned counsel for applicant that applicant being the wife of deceased Tulsi is entitled to family pension and placed reliance upon *Union of India Vs. Smt. Santosh, RLW 2005 (3) Raj. 1970.*

6. In the case of Smt. Santosh (supra), the Hon'ble High Court upheld the order of Administrative Tribunal granting family pension to the applicant therein. In the said case also, the deceased was granted temporary status and died during service and the Hon'ble High Court relying on para 2005 of Chapter XX of the Indian Railway Establishment Manual, Vol. 2 upheld the decision of the Administrative Tribunal to grant family pension to the wife of deceased temporary labour.

7. In the present case, admittedly and on the basis of documents placed on record by the applicant, it is clear that husband of applicant was given temporary status and, therefore, in terms of Rule 75 (2) read with Rule 75 (19) of Railway Services (Pension) Rules 1993 and judgment of

Hon'ble High Court is entitled to the relief of family pension sought by her.

8. In view of the facts and circumstances of the case, the O.A. is allowed and the impugned order dated 03.11.2014 (Annexure A-4) is set aside and quashed. Respondents are directed to grant family pension to the applicant from the date of death of her husband Tulsi in April 1988 along with interest at the G.P.F. rate w.e.f. June 2017 i.e. the date of filing the present O.A. No costs.

(Rakesh Sagar Jain)

Member (A)

/Shashi/

