



CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A.NO.060/00067/2018 &
 M.A.NO.060/00077/2018
 (Order reserved on: 10.02.2020)
 Pronounced on: this the 4th day of March, 2020

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Suresho Devi W/o Late Sh. Chander Bhan,

aged 62 years (Group-D),

C/o Sh. Ram Saran Chander Puri,

Ambala Cantt.

Applicant

(BY: MR. KARNAIL SINGH, ADVOCATE)
 Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ambala Cantt.
3. Financial Advisor and Chief Accounts Officer/Pensions, Northern Railway, Baroda House, New Delhi.

(BY: MR. L.B. SINGH, ADVOCATE)

Respondents



O R D E R
[HON'BLE SANJEEV KAUSHIK, MEMBER (J)]

1. The applicant has approached this Tribunal seeking quashing of the order dated 11.12.2008 (Annexure A-1), vide which her claim for grant of family pension has been turned down on the ground that deceased was working on casual basis only and was not screened employee.
2. The facts are not largely in dispute, as is apparent from the pleadings on record and on a perusal of the service book of the deceased employee. The deceased (Chandra Bhan) was initially employed as Wash Boy in statutory canteen on 3.5.1979. As per letter dated 31.5.1989, he was appointed in the pay scale of Rs.750-940, as revised to Rs.2550-3200. He was medically examined on 5.8.1989, as per certificate, Annexure A-2. As per decision dated 22.10.1990 of Hon'ble apex Court in the case of **MMR KHAN VS. UOI** **ETC.** and 3.8.2015 in **MOHAN SINGH VS. CHAIRMAN, RAILWAY BOARD**, SLP No. 1624 and 1625 of 2014, such employees of non-statutory canteens of Railways would be treated as Railway servants w.e.f. 1.4.1990 and governed by Railway



Servants (Pension) Rules. The deceased expired on 4.8.2001. The family made efforts for release of family pension, which has been rejected vide order dated 11.12.2008 (Annexure A-1), on the ground that the deceased employee had not been screened and as such the applicant cannot be granted family pension. Hence the O.A.

3. The applicant has also filed an M.A.No.060/00077/2018 for condonation of delay in filing the O.A, on the premise that applicant kept on making efforts and in any case, it is a hard case and it being a recurring cause of action, the delay in filing the O.A. may be condoned.

4. The respondents have filed a reply. They submit that no ground is made out for condonation of delay in filing the O.A. and in any case, since the deceased was not screened, the applicant is not entitled to any family pension.

5. I have heard the learned counsel for the parties at length and examined the material on file with their able assistance.



6. A perusal of the material on record would show that the impugned order rejecting her claim for family pension, raised by her son, was passed in 2008, but the applicant has not challenged the same within the period of limitation. The ground for delay is that the applicant is a poor and uneducated lady and as such she could not approach the Tribunal in time. She submitted representation, Annexure A-8 in 2007-2008 which was rejected in 2008. However, there is no explanation, whatsoever, as to what prevented the applicant from filing this O.A. in time except vague assertions that she is poor and uneducated. These are no grounds, much less cogent one, to condone the delay in filing the O.A. and as such M.A. for condonation of delay is rejected.

7. Now coming over to the merit of the case. It is not in dispute that deceased employee was not screened and was working only on casual basis. The issue as to whether widow of a person, who is not screened or regularized, can be granted family pension or not in question of delay also, stands clinched against the applicant, by a decision dated 25.10.2018 in O.A.No.060/00110/2018 – **RAM KALI VS. UNION OF**



INDIA ETC. The relevant portion of the order is reproduced as under :-

"7.The sole issue before the Tribunal is whether the applicant, Ram Kali, is entitled to family pension. That her husband, Sham Lal, was working as Gangman in Railways, and was also granted temporary status w.e.f. 03.10.1986is admitted. That he died in a railway accident on 11.05.1996is also admitted. We, however, note that the applicant applied for family pension only in 2017—that is more than 20 years after the death of the applicant's husband. She has stated that she personally approached the respondents, but has not produced any proof thereof. The case is, therefore, completely barred by limitation and delay in view of Section 21 of the Administrative Tribunals Act, 1985 which is worded in negative term. The Tribunal is not empowered to admit any application filed after lapse of period prescribed therein unless each day's delay is explained to the satisfaction of the Tribunal. In this case, there is delay of over 20 years and still there is no explanation. In fact, there is not even an application for condonation of delay. We find the same casual approach all through the O.A. We, therefore, are of the view that the O.A. is hugely delayed, with no explanation for delay, and needs to be dismissed purely on this ground.

8.We also note that after sleeping over the matter for over 20 years, the applicant was reluctant to give adequate opportunity to the respondent department to look into her claim. She first got legal notice served on the department on 17.4.2017 (Annexure A-6). It is only thereafter that she made her first representation to the department which is dated 3.6.201 (Annexure A-2). Even her two letters seeking information under RTI from the department dated 15.6.2017 and dated 27.9.2017 (Annexure A-7) are after the legal notice and even after her first representation. After the impugned orders dated 14.12.2017 (Annexure A-8), she has filed the O.A. on 29.1.2018 -that is within two months from the date of impugned order. This is without approaching any higher authority for reconsideration of her case. Thus, there seems to be a predetermined mind to approach the Tribunal without even giving a decent opportunity to the respondent department and even before collecting information necessary for substantiating the case. We, therefore, feel that the O.A. needs be rejected on this ground as well. 9.We also



find that three annexures have been filed in the O.A. containing letters/representations being shown as signed by the applicant Ram Kali. However, two of these letters/representations do not contain her signature at all. Only one –that is representation dated 3.6.2017 (Annexure A-2) is signed by her. Second letter dated 15.6.2017 to CPIO is not signed and only "sd/" is indicated therein. The third one—that is an appeal under RTI dated 27.9.2017-has no signature whatsoever. This throws doubt on the genuineness of the documents and the statements of the applicant and her counsel.

10. Further, we note that the applicant has stated in the O.A. that "the deceased was initially appointed as casual worker in the year 1980" and was granted temporary status w.e.f. 3.10.1986. We, however, note from Annexure A-3 relied upon by the applicant (this is a railway identity card) that the applicant is aged 28 years when the card was issued on 19.11.1993. In that case, his date of birth would be somewhere in 1965. Then he would be only 15 years old in 1980 and could not possibly have worked as casual worker from 1980 – the statement made by the applicant. Even the department has not confirmed any service prior to 1986.11. We also find that as per Railway Establishment Rules(Annexure A-4),casual workers are to be granted temporary status after only 4 months of continuous service. Also, any service prior to such 4 months continuous service is not to be counted for any purpose. Hence, Sham Lal's service would ordinarily have started somewhere in 1986 only, and not much prior to that.

12. We also observe that the Railway Establishment Rules clearly state that "casual labourer acquiring temporary status shall be entitled to all the rights and privileges admissible to temporary railway servants." While other rights like pay-scale, dearness allowance, medical facilities, leave etc. are mentioned, pension is not so specified. The counsel for the applicant is arguing that pension is covered as the indications are only inclusive and not exclusive. It is clear from the rule position that the casual worker is entitled for the same rights as temporary railway servants. It is not established by the applicant's side that temporary railway employees are entitled to pension. On the other hand, the respondents have clearly stated that Sham Lal was an unscreened railway employee and therefore he was not entitled to any railway pension as per rules. The applicant has stated that the applicant's husband was medically examined for screening. However, the applicant's side has not



produced any documents to prove that he was so medically examined. Even the period when medical examination for screening was undertaken is not mentioned in the O.A. In any case, it is admitted by the applicant herself that the result of the screening was not finalized till the death of the applicant's husband. In such a situation, we do not find adequate ground to believe that the screening was undertaken and was completed declaring him medically fit for railway service. That his services were not regularized till his death is clear even from the prayer as family pension has been sought considering his services as regularized. In absence of due process for regularization having been completed and no case being made out in the instant circumstances, we do not find adequate justification for issuing such directions to the respondent department.

13. The cases quoted by the applicant in the O.A. are not applicable here in view of the peculiar facts of this case as indicated above.

14. In the face of the above facts, we do not see any reason to interfere with the impugned order.

15. The O.A. is dismissed both on the ground of delay and being devoid of merit."

8. For the parity of reasons given aforesaid that the claim is barred by time and dependent of an unscreened casual employee is not entitled to grant of family pension, this O.A. is also dismissed. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

Place: Chandigarh
Dated: 4-3-2020

HC*