

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

12

O.A. No.2105/98

HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

New Delhi, this the 13th day of December, 1999

Smt. Badama W/o Late Sh. Ram Chander
R/o RZE-669/10, Sadh Nagar
Gali No.18C, Palam, New Delhi-45 ...Applicant

(By Advocate: Shri U. Srivastava)

Versus

Union of India Through

1. The General Manager
Northern Railway
Baroda House, New Delhi
2. The Divisional Railway Manager
Northern Railway, Bikaner Division
(Near Rly Stn, Bikaner)
Bikaner (Raj)
3. The P.W.I. (Permanent Way Inspector)
Northern Railway
Mahendra Garh, Haryana ...Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R (ORAL)

Hon'ble Smt. Shanta Shastri

The husband of the applicant who was working as a Casual Labour (Gangman) under Permanent Way Inspector, died some time around 1982. The applicant has claimed that since her husband had acquired temporary status, she should be given family pension and compassionate appointment.

2. The applicant claims that her husband had put in more than the service required for granting of temporary status and she had approached the authorities concerned from time to time with the request for granting her pensionary benefits and for appointment on compassionate grounds. According to the ld. counsel for the applicant, she was assured

13

from time to time that her matter was under consideration and in the year 1994 she was asked to fill up certain proformae duly attested by a notary for appointment on compassionate grounds. The applicant has not heard anything further in the matter.

3. The ld. counsel for the applicant has pleaded that the applicant is entitled to the pensionary benefits because the applicant's husband had put in service from 1977 upto 1982. The applicant was hoping to get relief as she was asked to present information in certain proformae. However, nothing has been done.

4. The ld. counsel for the respondents submits that the applicant's husband Shri Ram Chander had worked on the Railways on daily rate for a period of 37 days from 28.6.1977 to 3.8.1977 and 60 days from 4.8.1977 to 2.10.1977. Thus the applicant's husband had put in a total of 97 days only and according to the Indian Railway Establishment Manual (Vol.II) chapter 20, only a casual labourer who has put in more than 120 days on open line or 180 days on project is entitled to grant of temporary status. In this case the applicant's husband had not put in more than 120 days and as such there was no question of grant of temporary status to the applicant's husband. The respondents have categorically denied that the applicant's husband was given temporary status. As such the applicant is neither entitled to any pensionary benefits or any appointment on compassionate grounds. The respondents have also

denied calling for any proforma information from the applicant in regard to her compassionate appointment. The ld. counsel for the respondents further contends that even if one were to take into account the so called representation dated 3.3.1983 from the applicant, even then that is time barred. The application has been filed in November, 1998. The delay defeats the legal remedy. The ld. counsel for the respondents is relying upon the judgment of the Hon'ble Supreme Court in the case of S.N. Ratanpal Vs. Union of India (JT 1993(3) 143). The ld. counsel for the respondents is also drawing support from another judgment of the Hon'ble Supreme Court in the case of Union of India Vs. Rabia Bikaner etc. in C.A. No.4377/97 arising out of SLP(C) No.4478/97 [1997(Vol.6) SCC 580], according to which employees with temporary status are not entitled to any pensionary benefits.

5. The ld. counsel for the respondents has also pointed out a discrepancy in the proforma said to have been submitted by the applicant in connection with the compassionate appointment. The date of death of the applicant's husband is shown as 29.9.1981 whereas the applicant has been claiming that her husband was in the employment of the respondents upto 1982. There does not appear to be any consistency in the statements of the applicant.

6. The ld. counsel for the respondent has further cited a judgment of the Hon'ble Supreme Court in the case of Ram Kumar Vs. Union of India (1998 2

15

SCR 138) wherein it has been held that people with temporary status are not entitled to any pensionary benefits.

7. The ld. counsel for the applicant also cites the judgment of the Hon'ble Supreme Court in the case of Ram Kumar & Ors. Vs. Union of India & Ors. (1998(2) SCR 138). Another case cited is the order of this Tribunal in O.A. No.1714/98 dated 6.10.1999 in the case of Bodan Vs. Union of India. In this case the respondents were directed to consider the claim of the applicant for granting service pension from the date of his retirement in accordance with the rules and instructions. The applicant had been granted temporary status after completion of 120 days.

8. Heard both the counsel for the applicant and the respondents and have also perused the judgments cited by them.

9. The applicant's husband expired some time in 1981. The applicant kept on making representations to the concerned authorities and has approached this Tribunal in 1998. It has been held time and again by the Hon'ble Supreme Court in several cases that parties should pursue their rights and remedies promptly and not sleep over their rights (JT 1994(3) SC 126) in the case of Ex-Capt. Manish Uppal Vs. Union of India & Ors. Similarly, in the case of S.S. Rathore Vs. State of Madhya Pradesh (AIR 1990 SC 10) it has been clearly held that the cause of action shall be taken to arise on the date of order of higher authority

(16)

disposing of the representation. When no such order is passed then the cause of action would start from the date of expiry of six months. Repeated representations do not enlarge the period of limitation. The instant case is hopelessly barred by limitation and needs to be dismissed on that account alone.

10. Even on merits the applicant has failed to establish that the husband of the applicant had been granted temporary status. It is very clear from the averments made by the respondents in their counter that the applicant had worked only for 97 days and there was no question of granting any temporary status. In the circumstances, there is no case for considering of any pensionary benefits to the husband of the applicant and the family pension to the applicant. Compassionate appointment is provided with a view to mitigate both the monetary and mental hardship of the family of the deceased. It cannot be expected that the applicant would have survived for nearly 18 years without any employment. Since her husband died in 1981, there is no case for considering giving compassionate appointment after 18 years. The applicant has no case. The O.A. is devoid of merits.

11. In the facts and circumstances of the case, the O.A. fails and is dismissed. No costs.

Shanta I-
(Smt. Shanta Shastry)
Member (A)

sc*