

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1005 of 1995

New Delhi this the 18th day of September 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

1. Smt Phoola Rani
Widow of Late Shri Chaturbhuji
2. Suresh Kumar
Son of Late Shri Chaturbhuji
C/o Madan Singh
House No.F-110-B Jawahar Park
Laxmi Nagar
Delhi - 110 092. ...Applicants.

(By Advocate: Shri H.P.Chakravorti)

Versus

1. Union of India through
The Principal Secretary
Ministry of Railways
Chairman Railway Board
Rail Bhawan
New Delhi
2. General Manager
Central Railway
Bombay VT
3. Divisional Railway Manager
Central Railway
Jhansi ...Respondents.

(By Advocate: Shri P.S.Mahendru)

O R D E R (ORAL)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The first applicant Smt. Phoola Rani is the widow and the second applicant Shri Suresh Kumar is the youngest son of late Shri Chaturbhuji who while in the service of the respondents as a Gateman expired on 7.12.1982. Shri Chaturbhuji was survived by, apart from the applicants, the eldest son Sudama Prasad, next son Arvind Kumar and a daughter named Kumari Usha. On the death of Shri

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Chaturbhuji, the family received a sum of Rs. 25293.90 on 30.8.1983 as final settlement of pensionary dues, as the deceased Chaturbhuji had opted for contributory provident fund. Considering the indigence of the family, after a lapse of 5 years, Sudama Prasad got attained majority was given an appointment on compassionate grounds as Watchman at Faridabad, but as bad luck would have it, Sudama Prasad also expired within 2 years after getting employment on 5.11.1989. A sum of Rs.11024 was paid to the first applicant as terminal benefit of her son Sudama Prasad. After the death of Sudama Prasad in 1989, the applicant made a request for compassionate appointment in favour of the second applicant which was followed up with another representation dated 22.1.1993. Finding no response, the applicants have filed this application praying that the respondents may be directed to consider and release family pension or ex-gratia payment as per rules and appointment in favour of applicant No.2 on compassionate grounds. It has been alleged in the application that as the applicants were not given any family pension on the death of her husband or on the death of her son Sudama Prasad in accordance with the contents of the letter No.F-E/III/85/PNI/90 dated 26.7.1985, the applicants are entitled to the family pension. It is also stated in the

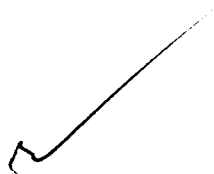


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application that as provided for in the Railway Board's letter No.PC/IV/87/Imp/1 dated 30.6.1988, the family is entitled to ex-gratia payments

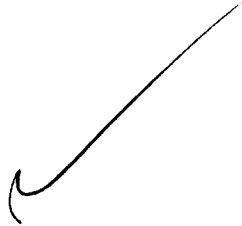
2. The respondents in their reply contend that the applicants are not entitled to any relief as whatever was due on the death of Chaturbhuj and of Sudama Prasad had been given to the family. They contend that as Chaturbhuj had not opted for family pension, the family is not entitled to any family pension and ex-gratia payment in accordance with the Railway Board's letter dated 30.6.1988 has already been arranged to be paid to the applicant. The facts and circumstances of the case, according to the respondents, do not deserve employment assistance on compassionate grounds, nor is the family entitled to any claims made in the application.

3. I have heard Mr H.P.Chakravorty, learned counsel for the applicant and Mr P.S.Mahendru, learned counsel for the respondents. The claim of the applicant for employment assistance on compassionate grounds can be first considered. From the allegations in the application, it is not evident that the family is now in indigent circumstances. The death of Chaturbhuj occurred in the year 1982 and considering the indigent



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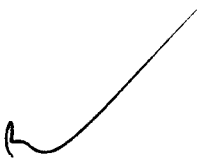
circumstances of the family, one of the sons who attained majority was given employment in the year 1987. Unfortunately, that son of Chaturbhuj also expired in the year 1989. However, the family has survived for 14 years after the death of Chaturbhuj. Apart from the second applicant Shri Suresh Kumar, there is an elder son Arvind Kumar and the first applicant. Nothing is stated as to what Arvind Kumar is doing. It is alleged in the application that Suresh Kumar, the second applicant is earning by manual labour and supporting the family. Arvind Kumar who is elder to Suresh Kumar also must be earning. Therefore, it cannot be accepted that the family is in indigent circumstances. The scheme for grant of compassionate appointment was envisaged only with a view to render immediate assistance to the family of government servant or railway servant, as the case may be, thrown into extreme poverty and indigency on account of sudden and unexpected demise of the bread earner and not with a view to provide government employment or railway service to each one of the sons/daughters of an employee dying in harness. The Hon'ble Supreme Court has in Life Insurance Corporation of India Vs Ananda Nageswara Rao held that compassionate appointment is justified only in ^{sole} cases where the bread-earner of the family dies suddenly leaving the family in extreme indigence where there is no other earning member in the



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family. In this case, there are two earning members. Therefore, I am not convinced that the family is in such indigent circumstances as would justify employment to be given to the second applicant on compassionate grounds. Learned counsel for the applicant invited my attention to a ruling reported in ATC 1996 Vol.32 Page 432 Padma Viswas Vs. UOI. The facts and circumstances of that case have no comparison to the facts of the case on hand. The ruling reported in 1994 SLJ (1) Allahabad 438 also does not support the case of the applicants. Therefore, on the question of compassionate appointment, I am of the considered view that the application should fail.

4. Regarding the claim for family pension, the respondents refute the claim on the ground that Chaturbhuji had not opted for family pension. Ex-gratia payment in accordance with the contents of the letter dated 30.6.1988 of the Railway Board has already been sanctioned and learned counsel for the applicant stated at the Bar that the same has since been made available to the applicant. Learned counsel for the applicant stated that the applicant would be entitled to grant of family pension both on the death of Chaturbhuji as also on the death of Suresh Kumar, as at the time of his death he was single. However, the applicant having not made any



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claim with the Railways for grant of family pension, before coming to the Tribunal for a direction to the respondents for grant of family pension, they should have first put forth the claim before the respondents and only if the respondents rejected their claim, they would have a cause of action. Therefore, on the relief of family pension, it is open for the applicant to approach the concerned authority with relevant materials.

5. In the result, the application is disposed of with the following declaration and direction:

The claim of the applicant for compassionate appointment of the second applicant is rejected.

Regarding the claim of the applicant for grant of family pension, it is open for them to make the claim before the competent authority of the Railways and if they are aggrieved by the outcome of the claim, they would be at liberty to seek appropriate relief in accordance with law.

There is no order as to costs.



(A.V. Haridasan)
Vice Chairman (J)