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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.122/2000

New Delhi, this 5th day of March, 2001

Hon'ble Shri M.P. Singh, Member(A)

Smt. Prem Vati
Safaiwali, under Health Inspector
Northern Railway, Aligarh .. Applicant

(By Shri B.S.Maine, Advocate)

versus

Union of India, through
1. General Manager
Northern Railway, New Delhi
2. Divisional Railway Manager
Northern Railway, Allahabad
3. Health Inspector
Northern Railway, Aligarh .. Respondents


(By Shri R.L. Dhawan, Advocate)

ORDER

By the present OA, applicant seeks directions to the respondents to pay her family pension, provident fund, gratuity etc. due to her on the death of her husband late Shri Dharampal, who died in harness while working as substitute Safaiwala under Health Inspector, Aligarh after putting in service of 17 years from 9.3.1973 to 18.7.1990, when he died in an accident.

2. The applicant has been appointed as Safaiwala on compassionate ground in place of her late husband and she was paid Rs.5800 in 1991. Despite several representations made by her, respondents have not paid family pension etc. to her. That is how she is before this Tribunal through the present OA.

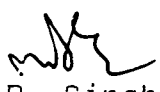
3. Though the respondents have contested the case, it is not in dispute that late Shri Dharampal was appointed as substitute Safaiwala w.e.f. 18.7.1990 and that he was granted temporary status. Learned counsel for the



respondents oppose the claim of the applicant on the strength of the judgement of the apex court in the case of UOI & Ors. Vs. Rabia Bikaner etc. JT 1997(6) SC 95. This was the case of a widow of casual labour who had not been regularised till his death. Therefore, I am of the considered view that this judgement is not applicable to the case on hand.

4. On the other hand, the learned counsel for the applicant drew our attention to the decision of the apex court in the case of Prabhavati Devi Vs. UOI (1996) 7 SCC 27 wherein it was held that on completing 6 months' continuous service, the husband of the appellant became a temporary railway servant and when he died after one year's continuous service his widow and children became entitled to family pension. In the instant case, as already pointed out, the husband of the applicant was appointed as substitute Safaiwala and had obtained temporary status. Therefore, his case is covered in all fours by the ratio of the judgement in the case of Prabhavati Devi (supra). Thus, respondents are not justified in denying the benefit of family pension to the applicant.

5. In view of this position, the present OA is allowed. Respondents are directed to grant family pension etc. to the applicant in respect of her late husband Shri Dharampal, as per rules. This shall be done within a period of three months from the date of communication of this order. No costs.


(M.P. Singh)
Member(A)

/gtv/