

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

...

O.A. No.2882 of 1995

(11)

Dated New Delhi, this 23rd day of November, 1995

Hon'ble Shri K. Muthukumar, Member(A)

1. Smt. Lali  
Widow of Late Shri Lal Singh  
R/o H.No.F-238, Raj Nagar-II  
Palam Colony  
NEW DELHI.
2. Shri Ramesh Kumar  
S/o Late Shri Lal Singh  
R/o H. No.F-238, Raj Nagar-II  
Palam Colony  
NEW DELHI.  
By Advocate: Shri Yogesh Sharma, Proxy  
counsel for Shri V.P. Sharma      ... Applicants

versus

1. Union of India, through  
The General Manager  
Northern Railway  
Baroda House  
NEW DELHI.
2. The Divisional Railway Manager  
Northern Railway  
BIKANER
3. The Assistant Engineer  
Northern Railway  
REWARI (Haryana).  
By Advocate: Shri K. K. Patel      ... Respondents

O R D E R (Oral)

Shri K. Muthukumar, M(A)

This application has been filed under section 19 of the Administrative Tribunal Act, 1985 by the widow of Late Shri Lal Singh who was working as a casual labour Gangman in the Northern Railway. The applicant has claimed family pension and also grant of compassionate appointment for her son. On the request not being considered so far, she has approached this Tribunal praying for a direction to the respondents to

sanction family pension as well as grant of compassionate appointment to her son.

(2)

2. It is stated by the applicant that the deceased Lal Singh served as a casual labour in the Northern Railway. Annexure-2 at page-18 of the application shows that he was engaged as casual labour from 3.9.76 and the service record shows that the deceased employee had worked for 699 days for the period from 3.9.76 to 9.11.79 in broken spells. The applicant has submitted that the deceased employee was also examined for medical fitness. Annexure A/5 is the Fitness Certificate issued by Medical Department of Railway, which shows that the deceased employee was a candidate for appointment as Gangman and was considered fit for such appointment after such medical examination.

3. The respondents have, however, averred that the deceased employee was engaged in the Railways from 3.9.76 to 9.11.76. They have averred that Late Shri Lal Singh voluntarily abandoned the service and there was no contact with him thereafter. They have also averred that at the time of death he was not on the rolls and, therefore, he could not be considered as a Railway Employee. They have averred that he was screened only for the purpose of engagement as casual labour which is also essential under the rules. It is stated on

behalf of the respondents that the deceased employee was never given the regular scale and he was not appointed on regular basis. In view of this, the respondents have denied the claim of the applicant.

They also raised the question of limitation as the application has been filed only in 1992 although the deceased employee had left the service in 1979 and, therefore, the application is hopelessly barred by limitation.

4. On a perusal of the record it is seen that the case had been admitted already on 5.1.93 and the question of limitation was left open. The applicant had approached this Tribunal after almost nine years after the death of her husband, and, therefore, the application is barred by limitation.

5. The learned counsel for the applicants states that the applicant is an illiterate person unaware of the legal provisions. Further, the applicant did, in fact, make a representation dated 5.3.92 to the respondents (Annexure A/7). The learned counsel for the applicants states that the widow had stated even in the application that in the above representation she had prayed for compassionate appointment of her only son. The reason for delaying such representation and also for such application could be due to the fact that her son for whom she had prayed for grant of compassionate appointment, was underaged at the time

of death of Shri Lal Singh and, therefore, prays that the limitation question should not be held against her. The learned counsel for the respondents, however, denies receipt of any representation. The learned counsel for the applicants has produced at the Bar the Registration slip of the Postal Department and also the Acknowledgement in token of receipt of such representation. The learned counsel for the applicants also states that certain matters were raised for payments due to be paid to the deceased employee before the Labour Court when he was alive and the position taken by the respondents at that time in the Labour Court was that all the payments due / paid to him. The learned counsel for the respondents states at the Bar that in pursuance of the Labour Court's order, some payments have been made. However, it is stated that the entitlement of family pension was not specifically decided by the Labour Court. Be that as it may, the fact remains that the applicant had made a representation to the Railways although belatedly, on 5.3.92 when her son had crossed majority age and / also not been favoured with any reply. The respondents have also not been able to categorically produce any record to show that there had been no engagement after 10.11.79 whatsoever / and no regularisation of the deceased employee at any point of time. The certificate issued

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by the local medical authority shows that he was cleared for appointment as Gangman. (15)

6. In view of this, I think it would meet the ends of justice if a direction is issued to the respondents to look into the applicant's representation dated 5.3.92 regarding grant of compassionate appointment to her son and take appropriate decision in accordance with rule and after verification of such records available with them and give a suitable speaking reply to the applicant. If the applicant's deceased husband was at any time regularised and was found to be employed on regular basis, the respondents should also consider her entitlement for family pension in accordance with rules. The learned counsel for the applicants does not, however, press on the prayer for compassionate appointment of the son and, therefore, no order is passed in this behalf.

7. With the above directions, this application is closed, with no order as to costs.

  
(K. Muthukumar)  
Member(A)

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