

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

OA No.2932/92  
MP No.222/93

Date of decision: 1.9.1993

Shri Prem Singh Ravi

Union of India & Others

CORAM:

Hon'ble Shri C.J. Roy, Member (J)

For the applicant .. Shri M.L.Chawla & S.L.Lakhan Pal, Counsel

For the respondents .. Shri B.K. Aggarwal, Counsel

Judgement (Oral) (Single Bench)

This is a case for compassionate appointment and for release of family pension. The applicant is the son of Shri Phuley alias Phool Singh. It is alleged that Shri Phuley, while working in the Northern Railway from sometime around 1950 is missing from 23.6.1981 and since then he is not traced.

The applicant has claimed the following relief:

- (a) To direct the respondents to pay the family pension and all other terminal benefits with a penal interest @ 18%;
- (b) To direct the respondents to appoint the applicant to a suitable post on compassionate ground;
- (c) To allow cost of the application, the applicant being belonging to SC community; and
- (d) Any other relief as deemed fit.

2. Both the counsel agree that there is no dispute that the applicant is the son of the missing person. The family pension has not been released to the survivor of Shri Phuley in view of the fact that he has not opted for pensionary scheme.

3. I find at Annexure A-7 is a letter dated 7.4.83 about compassionate appointment, whereas it is stated that:

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"compassionate ground appointment may be made where an employee's whereabouts are not known for a period of 7 years and the settlement dues for a period of 7 years and the settlement dues of the employee are paid to the family on this account. This limit of 7 years may be relaxed to 3 years on the merits of each case with the approval of the General Manager, subject to the condition that the services of the person appointed on compassionate grounds would be terminated in case the missing employee is traced subsequently"

4. In this regard, my attention was drawn to the Tribunal's judgement in DA 1887/87 reported in ATLT (CAT)266 1989(Vol.II), wherein it was held in para 12 as under:

.....There is a provision in para 4 of the Pension Scheme that any such employee from whom an option form showing the employee's option was not received i.e. or before 31.3.1958 or whose option was incomplete or conditional or ambiguous shall be deemed to have opted for the pensionary benefits. Even under this clause of the scheme, the applicant would be entitled to the benefit of the pensionary scheme. We are of the view that the provisions of para 4 would be attracted in the case of the applicant".

5. It was also brought to my notice of the judgement in the case of Sushma Gosain VS UOI regarding compassionate appointment, wherein the hon'ble Supreme Court has held that compassionate appointment should be made immediately to redeem the family in distress and if there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant.

6. I have seen the service book of Shri Phuley, produced by the Department. It is stated therein that the date of birth of Shri Phuley is 18.7.25 <sup>in is agreed by both sides that</sup> ~~that~~ Class IV employees <sup>may</sup> would superannuate at the age of 60 years.

7. The applicant's claim is that the family of the missing Govt. servant is in indigent circumstances as he left behind 6 persons, out of which two daughters are already married.

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8. Following the judgement cited supra, I am of the opinion that it is a fit case for giving compassionate appointment and also release of family pension. I therefore direct the respondents to consider the case of the applicant for compassionate appointment against a suitable post and, if necessary, by relaxation of age and other conditions.

The respondents are also directed to release the family pension ~~xxxxx~~ with 10% simple interest to the heir of Shri Phuley, as per Rules, after taking an undertaking from the other children (though it is claimed that a power of attorney is filed).

This exercise may be completed within three months from the date of communication of this order.

9. The application is thus disposed of. No costs.

*W. S. Roy*  
(C.J. ROY)  
Member (J)  
1.9.93