

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

(3)

O.A. No. 702/93

New Delhi, this the 26th October, 1994.

Hon'ble Shri J.P.Sharma, Member (J)  
Hon'ble Shri B.K.Singh, Member (A)

Smt. Hoshayari Devi wd/o Late Ganga Ram,  
7/o 1/4451, Ram Nagar, Extn., Shahdara,  
Delhi- 110 032.

...Applicant

By Advocate Sh.  
S. R Dwivedi

Versus

1. Union of India, through the Secretary, Department of Post, Ministry of Communication, New Delhi- 110 001.
2. The Chief Post Master General, Department of Post, Delhi Circle, Meghdoot Bhavan, New Delhi- 110001.

...Respondents.

By Advocate: Sh. Madhav Panikar proxy  
Sh M.K. Gupta.

ORDER (ORAL)

Hon'ble Shri J.P.Sharma, Member (J)

Hoshayari Devi filed this application in March, 1993 for claiming certain benefits which accrued to her husband late Ganga Ram who was employed as L.S.C. Supervisor in Delhi and retired from the service. She has prayed in this application that the benefit which was due to her late husband w.e.f. 1st October, 1968 may be given to her being the widow of the deceased employee. A notice was issued to the respondent to file their reply and contest the application. Shri S.R.Dwivedi is present on behalf of the applicant. Though on 20th October, 1994 none was present so the case was reserved for orders for 24th October, 1994. However, on 24th October, 1994 the request was made by the proxy counsel for adjournment and so the case has been listed for hearing today. Shri S.R.Dwivedi on behalf of the applicant and Sh. Madhav Panikar as proxy for Shri M.K.Gupta for the respondent after hearing the learned counsel on two points firstly that a person junior to the applicant at serial No. 432 has been giving the benefit of

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of promotion w.e.f. 1st October, 1968 whose name is Braham Chand, the name of the applicant's husband being at serial No. 383 i.e. above Shri Braham Chand aforesaid, that the deceased employee could not have been denied from the benefit, which have been made available in various judicial decision by the High Court or by the Tribunal to similarly situated employees. When it was sympathetically considered, the claim of the widow applicant, <sup>he</sup> came across an order of withdrawing the application D.A. 2482 of 1991 by the order dated 15.1.1993 giving the liberty to the applicant to work out their rights to approach the Tribunal ~~as~~ in accordance with law. The liberty was given to the applicant in that case. It is stated that the present widow applicant is the legal representative of the deceased employee Sh. Ganga Ram. This application, therefore, does not lie.

We have also considered the matter whether the cause of action is surviving to the widow or not. A cause of action dies with the person. The employee was claiming promotion from the retrospective date and at ~~that~~ the time of filing earlier application i.e. 2482 of 1991 he was alive. If he has chosen to withdraw the application he has done the same on his own risk. That right cannot pass on to the surviving heirs of the deceased employees. If this preception is accepted then there will be no bar of limitation taken in service matters and section 21 of the CAT will become ineffective.

Further we also found another hurdle of limitation which was not considered in the application withdrawn earlier. The benefit claimed is w.e.f. 1.10.1968 and now we are in the year 1994 almost the month is the same October. Thus the present application shall also be barred by delay, laches and un-explained time and late filing this application. The application is, therefore, <sup>devoid</sup> ~~beardum~~ merits and dismissed to bear the parties their own costs.

  
(B.K.SINGH)  
MEMBER (A)

  
(J.P.SHARMA)  
MEMBER (J)