

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD

Allahabad: Dated this 27<sup>th</sup> day of April, 2000  
Original Application No. 1304 of 1996

GRAM

Hon'ble Mr. S. Biswas, A.M.

Smt. Kamlesh Kumari aged about  
39 years, widow of Late Sri Ashok  
Kumar, s/o Late Sri Babu Lal, R/o  
C/o Kappor Chandra, Quarter No.  
196/D, Western Railway Colony,  
Idgah, Agra-282001.

(Sri Rakesh Verma, Advocate)

.....applicant

Versus

- 1- Union of India through the General  
Manager, Central Railway,  
Mumbai V.T.
- 2- The Divisional Railway Manager,  
Central Railway,  
Jhansi.

(Sri K.P. Singh, Advocate)

.....Respondents

ORDER

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- 1- The applicant, a widow of Late Ashok Kumar, has sought direction to pay family pension to her w.e.f. 21/10/89. Her application for family pension has been rejected by the R-2 vide order dt. 2/1/96 and 26/6/96.
- 2- It is stated that her husband, Ashok Kumar was a casual labour (Khalagi) w.e.f. 3/6/77 at Agra Cantt under Inspector of Works. He steadily acquired temporary status w.e.f. 19/9/83 and since then there had been no break in his job and earned salary increments and all other benefits as monthly rated casual labourer. He was screened and empanelled at 145 S.No. on 29/9/89 for regularisation in Gr.D ~~case~~. But before the pronouncement of the result, said Shri Ashok Kumar expired on 20/10/89. He had then completed six years of job without any break with temporary status making him eligible for family pension. Since 1977 he served as casual labourer for 12 years. It is submitted that she is under the law eligible for family pension. Her representations to the respondents for family pension as decided in L.C. No. 491 (1990) before Central Govt., ~~Labour Court~~ and Hon'ble Supreme Court's judgement on Ram Kumar's case was rejected, such monthly rated casual workers became eligible for family pension as per these orders/dicisions only after completion of one year of Job, whereas, the applicants husband

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Completed 5 years of continuous services. The representation was rejected on 2/1/96 by the respondent stating that as MRCL's widow, She is not entitled to family pension as per the family pension rules of the railway deptt. Hence, the cause of action arose for this application. Respondent No. 1 had also rejected her appeal on 26/6/96. That Ashok Kumar was as regular employee in the scale of 750-940/= and that he was drawing Rs. 834/= p.m. at the time of his death has been overlooked by both R-1 and R-2 while disposing her petitions and appeal that the widow was paid all benefits like P.F., free passes, quarter and DCRG proves the fact that he was a Railway employee having more than one years of service to be eligible for pension also. The applicant has further submitted the following rulings in her favour.

- 3- In O.A. 290 of 1992 Smt. Mohini Bai Vs. U.O.I. others, the Jaipur Bench of C.A.T. also held that widow of a temporary Railway Servant is eligible for family pension.
- 4- In Gamini Bala Bera Vs. U.O.I. case, the calcutta Bench of C.A.T. also held that widow a casual employee who after attaining temporary status expires is eligible for family pension.
- 5- The Hon'ble Supreme Court has taken the same view in the case of Prabha vali Devi 1990 (1) HCSLJ 89 . Heard both the parties.

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The learned counsel for the respondent disputed the claim on the ground that the applicant's husband was a monthly rated casual employee till his death on 21/10/89 and that he was not regularised but he has not disputed that he served continuously for six years as a casual employee with temporary status without any break from 19/9/83 upto 21/10/89. He was drawing salary in the scale of Rs. 750-940. It has been stated that the he draw increment in this scale and his salary at the time of retirement was Rs. 834/= per month. It has been also confirmed by the learned counsel for the respondent that the widow of Ashok Kumar was paid R.F. held free ticket, and received DCRG, as eligible. He has also accepted that the deceased was considered for formal regularisation to the grade Gr.D and he was found fit and empanelled of S.No. 145 on 29/9/89, though unfortunately before the regularisation order was out <sup>time</sup> employee expired.

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It, therefore, follows that the deceased was undoubtedly a temporary employee of the Railways for more than six years and he should have been regularised long before. He was found fit for regularisation had that been done in time, at the time of his death, he would have been regular Gr.D employee.

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Though the counsel for the respondents has disputed that Ram Kumar's case of Hon'ble S.C. is not applicable, because, that was a full pension case of a temporary employee but if the ratio of eligibility of a temporary employee is accepted, by *extension* ~~extension~~ of the same ratio the widow becomes eligible for family pension.

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9- The learned counsel further averred to the definition of "Railway Servant" and "substitute" employee to say that 'Temporary' railway employees are excluded from the purview of pension and family pension. This argument no longer holds good after the Hon'ble Supreme Court's decision in Ram Kumar's case.

10- In the case of O.A. 290 of 1992 Suti Nehni Bai Vs. U.O.I. & others of Jaipur Bench of C.A.T. the eligibility of "Casual labour treated as temporary" has been favourably decided by invoking para 2511 of Indian Railway ETT Manual. That the widow of a temporary employee is eligible for family pension is also settled in the same order in terms of R-2311 Sub-Clause 3 (b) chap. XXIII.

11- Applying the ratio of the above cases and decisions, the present O.A. is admitted with the following direction.

- i) Family pension at appropriate rate will be worked out and paid to the applicant w.e.f. 22/10/89 within 3 months of receipt of this order.

No costs.

A.A.

*S. Bans*  
Member A