

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1097 of 1996

Allahabad this the 06th day of December, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Smt.Bheeri, aged about 50 years, Wife of Late
Shri Janki Prasad, resident of Out-House of
Bungalow No.C-85, Railway Colony, Jhansi.

Applicant

By Advocate Shri Ram Kumar Nigam

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Divisional Railway Manager, Central Railway, Jhansi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Late Shri Janki Prasad has worked in the respondents establishment for 2 years, 7 months and 12 days as permanent employee in the cadre of YKC Loco Shed, Jhansi upto 1976 and thereafter he did not report to duty, and died in 1992, leaving behind his widow-Smt.Bheeri-who has come up before the Tribunal, seeking relief to the effect that the respondents be directed to treat the services of

deceased-Shri Janki Prasad as regular and continuous for the purpose of qualifying service of pensionary benefit and fixed family pension in favour of the applicant and to pay the arrears w.e.f. 17.8.1992, the date when Janki Prasad is said to have died.

2. The respondents have contested the case with the mention that the applicant is not entitled to any pension in view of provision contained in Rule 102 of Manual of Railway Pension Rules, 1950, as corrected upto 01.9.1969, which runs as under;

"Ordinary gratuity/pension becomes due on quitting service on account of any one of the following reasons:-

- (a) abolition of post;
- (b) medical invalidation;
- (c) retirement on completion of 30 years' qualifying service;
- (d) superannuation.

No ordinary gratuity/pension is, however, payable if the Railway servant ~~dies while in service. A permanent Railway servant who quits service before completion of 10 years' qualifying service is given an ordinary gratuity but no pension~~ pension is granted only if a permanent Railway servant quits service after completion of at least 10 years' qualifying service."

and since the applicant's husband did not put in qualifying service, therefore, the applicant is not entitled to get any benefit as family pension.

3. Heard, the learned counsel for the rival contesting parties and perused the record.

4. In this matter, there is no dispute regarding the facts and the relevant dates. The question remains only regarding the entitlement of family pension to the applicant. From the side of the respondents, we have Rule 102 as above, and the learned counsel for the applicant has relied upon the direction under Family Pension Rules, 1964. According to which, the provision for eligibility to family pension as provided by (R.B.N.F(E)III-71-PN-1/8 of 18.5.72 and 9.12.73). (N.R.S.N.5663 & 6065). which is given as under;

"(2) Eligibility:- Family pension, according to these rules, will be admissible to the family of the employee subject to the following conditions:-

(a) Incase the employee dies while in service he must have completed at least one year's service. Period of extraordinary leave should be counted for the purpose of reckoning one year. (R.B.N.F(E)III-71-PN-1/8 of 18-5-72 and 9-12-73) (N.R.,S.N.5663 & 6065).

5. In the circumstances as narrated above, it is found expedient to decide the O.A. with the following directions;

"Incase the applicant makes a representation within 4 weeks from the date of this order, the same be decided by the competent authority in the responding establishment within 3 months thereafter keeping in view the position as per rules and the above observation, by reasoned, detailed and speaking order.

6.

No costs.