

OPEN COURT

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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 04th day of December 2001

Original Application no. 1173 of 1997.

Hon'ble Maj Gen KK Srivastava, Administrative Member

Smt. Phulehra Devi, W/o late Sarjoo Ram,
R/o Maniyaripur, Post Office, Jagatpur, Lohta,
VARANASI

.... Applicant

By Adv : Sri V.K. Srivastava

Versus

1. Union of India, through its General Manager,
N.E. Rly.,
VARANASI.
2. Divisional Rail Manager, N.E. Rly.,
VARANASI.
3. Senior Divisional Accounts Officer, N.E. Rly.,
VARANASI.

.... Respondents

By Adv : Sri A.K. Gaur

O R D E R

Hon'ble Maj Gen K.K. Srivastava, Member-A.

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant Smt. P. Devi, wife of late Sri Sarjoo Ram, employed in Railway establishment as temporary mason has challenged orders dated 31.12.1996/02.01.1997 and 23.09.1997 passed by respondents no. 1 and 2 respectively (Ann. 6 & 7). She has prayed that the respondents be directed to make payment of family pension since 17.12.1980, the date when her husband died.

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2. The brief facts of the case are that the applicant's husband late Sri Sarjoo Ram, worked in Railway establishment from 1969 to 1980 as temporary mason. He expired on 17.12.1980. The applicant sent a representation dated 26.12.1994 to the D.R.M. N.E. Rly., Varanasi claiming the family pension which was not paid to her due to administrative lapses. The request of the applicant was examined and rejected by D.R.M. N.E. Rly., Varanasi vide order dated 31.12.1996/02.01.1997 on the ground that since late Sri Sarjoo Ram was a temporary employee who was neither screened nor regularised, the applicant cannot be granted family pension in absence of any provision to that effect. The applicant again approached the DRM, NE Rly., Varanasi by sending other representations dated 21.5.1996 and 22.9.1997 which were also rejected on the same ground.

3. Learned counsel for the applicant has argued that the applicant is entitled for family pension as her husband was regular employee who rendered more than 11 years service in the Railway establishment. He has placed reliance on a decision of Hon'ble Supreme Court in Prabhawati Devi Vs. Union of India & Ors, 1996 (1) UPLBEC 40, in which it has been held that as per Railway Establishment Rules no. 2315, 2313 and 2311 (3) (b), ⁱⁿ Manual of Railway pension rules para 801, a temporary casual worker after completing 6 months continuous service acquired status of a substitute and while working as substitute for more than $3\frac{1}{2}$ years expired, but before his demise he acquired certain rights and ⁱⁿ previllages under rule 2313. Therefore, the wife of the deceased employee was entitled to get family pension under para 801. At this point Sri A.K. Gaur, learned counsel for the respondents has raised the objection of limitation which was controverted by the learned counsel for the applicant placing reliance on a decision of Patna Bench of this Tribunal in Moti Devi Vs. U.O.I. & Ors 1995 (31) ATC 343

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werein it has been held that pension, family pension and claim for family pension and other retiral benefits are not barred by limitation because the delay in filing application does not bar claim because it ^{in Accrues} requires every month. However, at this point Sri A.K. Gaur while contesting the claim of the applicant cited later judgment of Hon'ble Supreme Court in Union of India and others Vs. Rabia Bikaner and others (1997) 6 SCC 580, wherein it has been decided by Hon'ble Supreme Court that the casual employee with temporary status, but not yet appointed to a temporary post in railways after screening is not entitled to any family pension.

4. I have given careful consideration to the submissions ⁱⁿ made by learned counsel for the parties and perused records.

5. It is an admitted fact that the employee rendered more than 11 years of service in the railway establishment as casual/temporary mason and has been given benefit of revised pay scale of Rs. 260-400. It is settled matter that any one who gets temporary status is entitled for minimum of the scale and is also entitled for regular ⁱⁿcrementation. As a result of 3rd Pay Commission on the revision of the pay scales he was entitled for the revised pay which was given to him. However, in the representation dated 26.12.1994 (Ann. 4) it has been clearly admitted by the applicant that because of death of her husband he was not screened during 1984 alongwith other employees. For convenience sake I would like to cite the later judgment of Hon'ble Supreme Court in Union of India & others Vs. Rabia Bikaner & Ors (supra) in which Hon'ble Supreme Court has taken into account the decision taken by the Hon'ble Supreme Court in Prabhawati's (supra) case and held as under :-

"It is true that under para 2511 of the Railway Establishment Manual, casual labourers with temporary

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status are entitled to certain entitlements and privilages granted to temporary railway servants but this does not entitle them to family pension. Every casual labourer employed in railway administration for six months, is entitled to temporary status....."

which interalia means that the right for family pension accrued only in respect of widows of those employees who ^{had been} ~~were~~ properly screened even if they are not given regular appointment. In the instant case unfortunately the screening of the applicant's husband was not done. Therefore, she is not entitled for any family pension and I do not find any reasons to interfere with the impugned order.

6. In view of the above discussion the OA is dismissed. There shall be no order as to costs.


Member-A

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