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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

Dated: Allahabad, the 20th day of March, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

ORIGINAL APPLICATION NO. 647 OF 1997

Smt. Tirthhama Devi,  
widow of late Chokman Singh,  
aged about 37 years,  
r/o 395-E, Loco Colony,  
South Kanpur.

. . . . Applicant

(By Advocate Sri O.P. Gupta )

Versus

1. Divisional Railway Manager,  
Northern Railway, Allahabad.
2. Union of India through General Manager,  
Northern Railway, Baroda House,  
New Delhi.

. . . . Respondents

(By Advocate Sri A.K. Pandey )

O R D E R (ORAL)

(By Hon'ble Mr. S. Dayal, A.M.)

This application has been filed for direction to the respondents to grant compassionate appointment to the applicant and also to pay all retiring dues to her on account of service rendered by her husband, including family pension. The case of the applicant is that her deceased husband was medically de-categorised

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and ceased to be a serving employee under the respondents on 29.12.89. He was working as Fireman Grade 'B'. The order of de-categorisation was challenged by her husband in OA 10/91 and the O.A. was disposed of by an order dated 18.11.96. The O.A. was decided on merit and a direction was given to the respondents to subject the applicant to medical examination to ascertain his fitness for the post he held prior to his termination, failing which he can be medically examined for a lower category and in case he is found fit he be offered alternative employment appropriate to such medical category. A direction was also given to regularise the intervening period of service by granting leave, which may be due. The applicant's husband died on 14.11.96 prior to the delivery of the judgment. The applicant was saddled with the responsibility of bringing up for 3 minor children at the time of her husband's death and, therefore, she applied for compassionate appointment and for payment of retiral dues on 3.2.97. It is claimed that no money has been paid to the applicant, which may be due to her on account of her husband's service with respondents and no pension is being paid to her.

2. The arguments of Sri O.P.Gupta for the applicant and Sri A.K.Pandey for the respondents have been heard. The learned counsel for the applicant reiterated the averments made in the O.A.

3. The claim for arrears to be paid to the applicant's husband and thereafter to the applicant has been contested by the learned counsel for the respondents on the ground

that the applicant's husband was in possession of Railway Quarter and that the dues on account of the occupation of Railway Quarter ~~was~~<sup>were</sup> to be adjusted against the amount to be paid to the applicant. The gratuity of the applicant's husband was computed as Rs. 14,926/-, which was not paid to the applicant on account of unauthorised occupation of the applicant for the period 1.1.90 to 27.4.98, the damage rent for which has been computed to be Rs. 103400/-. Therefore, the applicant was treated as not entitled to any payment and, on the other hand, she was required to pay Rs. 88,473/- to the respondents. The claim of the applicant for compassionate appointment has been contested on the ground that the applicant's husband was called twice on 6.10.89 and 16.11.89 through registered post to be present before the Screening Committee for consideration of appropriate alternate category but he did not turn up and, on the expiry of Extraordinary Leave, he was discharged from service with effect from 31.12.1989.

4. I find that the respondents have stated in their counter reply that they do not resist the claim of the applicant for payment of dues. I also find from the rejoinder that there is a denial of the applicant that she or her husband continued in possession of the quarter after her husband's retirement. However, I find from the facts of the case that while the respondents have been keen to recover the damage rent from the arrears to be paid to the applicant on account of her husband's service, they have shown no consideration for the plight of the family of a medically de-categorised

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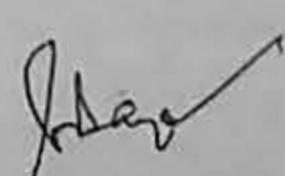
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employee, who died later on and which is still hoping for some support from the respondents.

5. I find from the pleadings that no notice was given to the applicant or her husband regarding recovery due on account of unauthorised occupation of quarter before appropriating the entire amount of gratuity and raising a demand for the balance.

6. In the facts and circumstances, I consider it appropriate to direct (i) to pay compensation to the applicant equivalent to the amount of Invalid Pension, which would have been payable to the applicant's husband, had he survived and claimed the same; (ii) to charge only normal rent for the period of occupation of the railway quarter. If any recovery is to be made from the applicant on this account, it should be made only after giving a notice to the applicant, regarding the period of occupation; (iii) to consider the claim of the applicant for Family Pension and (iv) to decide the prayer for compassionate appointment made by the applicant on 3.2.97. The compliance of these directions shall be made by Respondent No.1 within a period of three months from the date of receipt of a copy of the order. The costs of this application calculated at Rs.650/- shall be paid to the applicant.

  
( S. DAYAL )

MEMBER (A)

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