

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 655 OF 1997

ALLAHABAD, THIS THE 25th DAY OF MARCH, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Hamidunnisha wife of Late Razab Ali,
aged about 54 years, resident of Village-
Ibrahimbad, Post Office-Muratganj,
Tehsil-Chail District- Allahabad.

.....Applicant

(By Advocate : Shri P. Mishra)

V E R S U S

1. Union of India through Chief Signal Telecommunication Engineer, Kashmiri Gate, New Delhi.
2. Deputy Chief Telecommunication Engineer, D.R.M.'s Office, Construction Building, Allahabad.
3. Signal Inspector Northern Railway, Allahabad.

.....Respondents

(By Advocate : Shri P. Mathur)

O R D E R

By this O.A. applicant has sought the following reliefs:-

"That the respondents may be directed to complete formalities relating to grant of family pension of the applicant by virtue services rendered by her husband under the C.C.S. service rules and Government order issued in this regard."

2. It is submitted by the applicant that her husband Shri Razak Ali was working as Chowkidar when he died on 18.01.1992 even though he was to retire on 30.04.2001. She received an amount

of Rs.34,801/- on her husband's death but inspite of her representations she was not granted family pension. She has submitted that since she is an illiterate person she was not aware that she is entitled for grant of family pension under government order dated 14.04.1987(Annexure-7). She gave representation on 30.11.1996 but the same was not decided, therefore, she had no other option but to file the present case.

2. Respondents on the other hand have submitted that applicant husband died in 1992 as temporary status casual labourer whereas O.A. has been filed only in 1997, therefore, O.A. is barred by limitation and liable to be dismissed on this ground alone.

3. On merits they have submitted that after the death of her husband she was paid the amount which she was entitled to under the rules viz leave encashment P.F. & gratuity. Since he died as unscreened C.L. with temporary status, he was not appointed to any post in pensionable establishment, therefore, she is not entitled to family pension. They also relied on judgment given by Tribunal in O.A. No.1370/93 in the case of Smt. Shiv Pyari Vs. U.O.I. & Ors. and the Judgment given by Hon'ble Supreme Court in the case of Rabia Bikaner.

4. I have heard both the counsel and perused the pleadings. Admittedly applicant's husband was only a C.L. with temporary status when he died so the short question that is required to be answered is whether in these circumstances applicant can claim family pension as a matter of right.

5. The question need not detain us for long as it has already been decided by Hon'ble Supreme Court in the case of Rabia Bikaner reported in 1997 SCC (L&S)1524, after considering the judgments of Prabhawati Devi as well as Ram Kumar. The exact question which came up for consideration before Hon'ble



Supreme Court was! Whether the widow of a casual labourer in Railway Establishment, who died after putting in six months' service and obtaining the status of a temporary workman but before his appointment to a temporary post after screening is entitled to family pension! After discussing the rules and judgments as relied by respondents counsel it was held therein as under:-

"It is true that under Para 2511 of the Railway Establishment Manual, casual labourers with temporary status are entitled to certain entitlements and privileges 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. They are then empanelled and thereafter, they are required to be screened by the competent authority. They are appointed in the order of merit as and when vacancies for temporary posts in the regular establishment are available. On their appointment they are also required to put in minimum service of one year in the temporary post. If any of those employees who had put in the required minimum service of one year, died while in service his widow would be eligible for pension. In all these cases though some of the deceased employees had been screened, yet appointments were not given to them since temporary posts were not available or in some cases they were not even eligible for screening because the posts became available after the death. Under these circumstances, the respondent-Widows are not eligible for family pension benefits."

6. It is thus, clear that applicant is not entitled to family pension as her husband was not even screened nor was he engaged as a substitute. Since the present facts are fully covered by the above judgment, therefore, O.A. is dismissed being devoid of merit. No order as to costs.

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Member (J)