

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 13th day of Dec.2001,

QUORUM : HON. MR. RAFIQUDDIN, J.M.

O.A. NO. 1462 of 1998.

1. Smt. Jokhani Devi w/o Late Sri Shiv Dhari.
  2. Dhamraj s/o Late Sri Shiv Dhari, both r/o Village and  
Post Newaria, Meja Road, Allahabad... .. Applicants
- Counsel for applicants : Sri C.P. Gupta.

Versus

1. Union of India through General Manager, N.R., Baroda  
House, New Delhi.
  2. Divisional Railway Manager, N.R. Allahabad.
- ..... Respondents.

Counsel for respondents : Sri A.V. Srivastava.

O R D E R (ORAL)

BY HON. MR. RAFIQUDDIN, J.M.

This application has been moved by Smt. Jokhani Devi and Sri Dhamraj, the widow and son respectively of Late Shiv Dhari, who was working as Gangman under P.W.I, N.R., Allahabad. Shivdhari died on 30.7.97. It appears from the record that Late Sri Shiv Dhari was served with a major penalty (S.F.5) for his alleged unauthorised absence and after enquiry he was removed from service w.e.f. 29.1.97. The deceased submitted appeal on 9.4.97 for removal of order which was considered and the appellate authority modified the punishment order from removal of service to compulsory retirement vide letter dated 2.9.97. The present O.A. has been filed by the applicant for issuing direction to the respondents to appoint the applicant No.2 being the son of the deceased employee on compassionate ground to a suitable post and also seeks direction to grant family pension to applicant No.1 being widow of the deceased employee.

2. I have heard the counsels for the parties.

3. It is not in dispute that the order dated 2.9.97

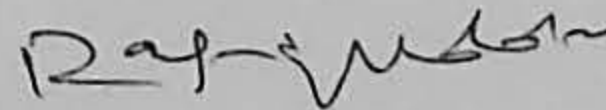
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whereby the deceased employee was compulsory retired from service, was by way of punishment. Therefore, the stand taken by the respondents that no appointment can be made to the deceased son on compassionate ground under such circumstances, is justified. Thus, the claim of applicant No.2 for his appointment on compassionate ground is not made out and his <sup>claim</sup> ~~case~~ is, therefore, rejected.

4. So far as the question of grant of family pension to applicant No.1 as widow of the deceased, it is stated by the respondents that the deceased employee was not entitled for pension/family pension as he had rendered only 10 months and 05 days qualifying service hence he was not eligible for pension because the pension is admissible only on minimum of 10 years qualifying service. On this question, counsel for applicant has referred to Rule 75 of Railway Service (Pension) Rules 1993 - (Pension Rules in short,) and has contended that the widow of the deceased employee is entitled for the family pension under the provisions contained in this rule. Counsel for the applicant has also submitted that the applicant No.1, the widow of the deceased may be permitted to file a fresh representation before the competent authority for grant of family pension to her as per rule.

5. While the claim of the applicant No.2 for appointment on compassionate ground is rejected, the applicant No.1 Smt. Jokhani Devi may, however, submit a fresh representation for grant of family pension before Sr. D.P.O., N.R., Allahabad for consideration and suitable orders within a period of four months from the date of <sup>receipt of</sup> such representation. The O.A. is disposed of accordingly.

No order as to costs.

  
J.M.

Asthana/