

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 18TH DAY OF FEBRUARY, 2003

Original Application No. 552 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

1. Smt. Vidyawati Devi,
W/o Late Shri Brij Bhushan Shukla

2. Ramesh Chandra Shukla
S/o Late Shri Brij Bhushan Shukla
both R/o Village & Post Chararaon
District Gorakhpur.

... Applicants

(By Adv: Shri B.Tiwari)

Versus

1. Union of India through the
General Manager, N.E.Railway
Gorakhpur.

2. Manager, Printing & Stationery
N.E.Railway Press, Gorakhpur.

... Respondents

(By Adv: ShriGautam Chaudhary)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has prayed for a direction to the respondents to give compassionate appointment to the applicant no.2. It has also been prayed that the respondents may be further directed to give pension and pensionary benefit to the applicant no.1 alongwith 12% interest deeming the deceased Brij Bhushan shukla as continuing in service till 24.5.1992 when he died.

The facts of the case are that husband of applicant no.1 and father of applicant no.2 late Brij Bhushan Shukla was employed in Railway Press as Khalasi in the scale of Rs 196-232 and he was drawing salary of Rs 335/- as on 17.12.1980. For this fact certificate relied on was prepared by late Brij Bhushan Shukla himself for the purpose of his son, ~~used~~ to be used in school. It appears that Brij Bhushan Shukla absented from duty w.e.f. 11.8.1981 and for ~~This~~ absence he was given notice on 1.9.1981 to join duty failing which disciplinary action will be taken against him. It is undisputed fact that late B.B.Shukla did not join there-after, on any day. He was not paid any salary and ultimately he died as stated in application (Annexure 4) on 24.5.1992. This application was given in 1994. For the first time request was made for compassionate appointment through this application. Then another application was given ~~with~~ the same fact which is undated and copy has been filed as (Annexure 5). On these applications query was made in 1999 through (Annexure 6), as it ~~is~~ usually happens if any application is given in government office. By order dated 3.4.2000, the claim for appointment on compassionate ground was rejected on the ground that late B.B.Shukla has not died while he was in Railway service and applicant no.2 is not entitled for compassionate appointment.

Resisting the claim respondents have filed counter affidavit. In counter it has been stated that services of late B.B.Shukla were terminated w.e.f. 15.10.1981 due to unauthorised absence. The question for determination is as to whether late B.B.Shukla could be treated as in

railway service on the date of death i.e. 24.5.1992. The undisputed facts are that after 11.8.1981 B.B.Shukla never worked on the post, he was not paid any salary. For all practical purposes the relationship of employer and employee had come to an end. Respondents claimed that his services were terminated w.e.f. 15.10.1981. If there was any relationship left the claim ought to have been raised for the benefits arising out of the fact that he was continuing in service. No such effort was made till 1994 when application was given. The compassionate appointment is given in order to provide immediate help to the family which was left without any earning hand. If the family could survive for 13, 14 years without any help, in our opinion, the compassionate appointment cannot be demanded and should not be given after such a long time. In the present case, the employment had come to an end in 1981 he could not be treated in service and the appointment has rightly been denied. The order is justified and does not call for any interference. As we have found that the relationship of employer and employee did not exist on the date late B.B.Shukla died i.e. on 24.5.1992, there is no question of granting any relief with regard to family pension also.

For the reasons stated above, the OA lacks merit and is dismissed. No order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 18th Feb: 2003

Uv/