

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 10th DAY OF JULY, 2009)

PRESENT :

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J

ORIGINAL APPLICATION NO. 827 OF 2004
(U/s, 19 Administrative Tribunal Act.1985)

Somevati W/o Late Ganga Ram, R/o Village-Kachchanpurwa,
P.O. Sunderpur Gajain, District-Kampur Dehat.

.....Applicant

By Advocate : Shri M. K. Upadhyay
Shri K.S. Saxena

Versus

1. Union of India, through General Manger, North Central Railway, Headquarter Office, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad Division, Allahabad.

..... Respondents

By Advocate : Shri K. N. Singh

ORDER

(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)

1. Heard learned counsel for the applicant. Perused the pleadings and the documents on record.
2. Ganga Ram, husband of the applicant (Smt. Somevati) is died as Cancer Patient while he was admitted. According to the applicant, he was regular Gangman, while according to the respondents, he was a Casual Labour with temporary status.

Ans.

3. The applicant has come up before this Tribunal through this OA seeking to quash impugned order dated 02.04.2004/Annexure A-1 whereby claim of the applicant for Family Pension has been rejected.

4. The respondents have filed counter reply. It is not in dispute that in the instant case pension is payable as per provisions of Railway Servant Pension Rules, 1993. According to the respondents, applicant's husband was not entitled to pension as he was a Casual Labour/Gangman with temporary status on the date of his death viz. 3.12.1992. Reference is made to several provisions of aforesaid Rule 1993 and, according to the respondents; a casual labour with temporary status is not covered by the expression that 'Railway Servant' as defined vide Rule 3(23). Various provisions contained in aforesaid Rule 1993 (including Rule 23) which provides for counting of temporary service under the State/Central Government and the provisions conferring right to gratuity under Rule 75 upon Railway servant go to show that in case, applicant is entitled for gratuity and/or otherwise he was working with temporary status, cannot be said to be beyond the purview of definition of Railway Servants under aforesaid Rule.

5. In para 5 of the counter affidavit it is submitted by the respondents that though they have paid gratuity to the family of the deceased employee, it appears that authorities have not applied their mind and they have not referred to the provisions dealing with status of temporary Casual Labours, otherwise also nothing brought on record that temporary Casual Labour should be excluded from the definition of Railway Servant under Rule

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1993 which expressly provide-'but does not include Casual Labour'. The said Rule does not show that Casual Labour with temporary status is outside the ambit of aforesaid definition.

6. In view of the above, impugned order dated 2.4.2004 is hereby set aside with direction to the respondents to decide the claim of the applicant of Family Pension in accordance with law keeping in view the observations made above within a period of three months of receipt of certified copy of this order.

7. OA allowed with the above directions. No Costs.


Member-J

/ns/