

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 18th day of March, 2008.

HON'BLE MR. A. K. GAUR, MEMBER- J

ORIGINAL APPLICATION NO. 167 OF 2005

Smt. Chheddi Devi alias Jagdeiya, Wife of Late Shree Ram,
R/o Vill. Shahjadepur, Majare Ramwan, Post- Ramwan,
Distt. Fatehpur.

.....Applicant.

VE R S U S

1. Union of India through its General Manager,
North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway,
Allahabad.
3. Senior Superintendent of R.P.F, Allahabad.
.....Respondents

Present for the Applicant:

Sri T.S. Pandey

Sri S.K. Yadav

Present for the Respondents :

Sri Amresh Singh

ORDER

By this O.A the applicant has prayed for quashing the order dated 25.10.2004 coupled with prayer for a direction to the respondents to grant family pension as well as appointment on compassionate grounds in Railways.

2. Brief facts of the case are that the husband of the applicant Late Shree Ram was appointed as Casual Labour on 06.12.1982 under Permanent Way Inspector (Special), Northern Railway (now N.C.R), Fatehpur, where he worked continuously and on 30.08.1984 he was

declared fit in B-1 medical category and was allowed C.P.C. Scale w.e.f 04.09.1984. He was further allowed revised pay scale w.e.f 06.06.1987 and was posted as Gangman in grade Rs. 200-250/-. According to the applicant, her husband was transferred as Gang Man under Permanent Way Inspector (P.Q.R.S), Northern Railway (now NCR), Manda Road, where he worked up to 27.02.1992 and since then he is missing and his whereabouts are not known. In support of his contention, counsel for the applicant has submitted that late Shree Ram was issued Railway Privilege pass on 17.07.1991 and 30.10.1991 from the Office of P.W.I (P.Q.R.S), Manda Road. The grievance of the applicant is that when her husband did not reach home nor he sent any information to the applicant, she was constrained to go to the office of P.W.I, Manda Road, where she came to know that her husband was not coming on duty after 27.02.1992. The applicant made best efforts to search her husband for several months but all in vain and no information was received about her husband. The applicant also went to Police Station, Manda Road to lodge report regarding missing of her husband but the police authorities did not lodge any report. Thereafter, the applicant sent written a complaint to Station Officer, Police Station, Manda Road, a copy of which was also sent to Senior Superintendent of Police, Fatehpur, but no response, whatsoever, was given by them.

3. The grievance of the applicant is that on 15.06.1997, she approached the concerned office at Manda Road for payment of gratuity, provident fund, etc., but since the office of P.Q.R.S was shifted from Manda Road to another station, no heed was paid to her request. The husband of the applicant has left behind him the applicant, one son and three daughters. In support of his contention, she has relied

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on a Certificate issued by the Gram Pradhan of Gram Panchayat Ramwan, distt. Fatehpur (Annexure A- 3 to the O.A). It is also evident from the said certificate that the deceased husband of the applicant is missing since more than 13 years but till date his whereabouts are not known and as such, the only presumption could be drawn that he is no more. On 27.07.2001, the applicant represented to the D.R.M, Allahabad for payment of gratuity, Provident Fund, Insurance and pensionary benefit but the request of the applicant was not acceded to despite best efforts made by the. Being aggrieved by the inaction of the respondents, the applicant filed O.A No. 587/03, which this Tribunal disposed of vide order dated 02.04.2004 with a direction to the respondent No. 2 to decide the representation of the applicant by a reasoned and speaking order (Annexure A- 4 to the O.A). It is further submitted that the applicant made a representation before the respondent No. 2. She also made representation dated 06.09.2004 before the SSP, Fatehpur (Annexure A- 5 to the O.A) as well as representation dated 24.09.2004 before Station Office, Police Station (Annexure A- 6 to the O.A), Manda Road requesting them to issue missing certificate in respect of her husband Shree Ram. Considering the request of the applicant, the then Incharge of Police Station Thariyanv Distt. Fatehpur issued a certificate 29.09.2004 (Annexure A- 7 to the O.A) regarding missing of Shree Ram since 1992 and his whereabouts are not known. The applicant was shocked when she received the order, impugned in the present case, dated 25.10.2004 issued by the respondents rejecting the claim of the applicant on the basis that she did not submit copy of FIR/final report with the respondents. According to the applicant, that her claim has been rejected without considering the report dated 29.09.2004 issued by the police authorities. The applicant also placed reliance on the Railway

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Board's Circular dated 10.12.1990 and claimed for payment of terminal benefits and appointment on compassionate grounds after expiry of seven years/three years.

4. Denying the pleas taken by the applicant, the respondents filed their reply stating therein that the O.A is highly time barred and the same deserves to be dismissed on this ground alone. In various paragraphs of the reply, it has been stated that no such record made in support of F.I.R or any application, is available in the office of the respondents. From the reply of the respondents, it is amply clear that no reasonable or plausible explanation has been offered by the respondents to deny the legitimate claim of the applicant.

5. In Rejoinder Affidavit, the applicant, denying the submissions made by the respondents in their reply, has reiterated the same facts as enumerated in the O.A.

6. Having heard Sri S.K. Yadav, learned counsel appearing for the applicant and Sri Amresh Singh for the respondents, we are of the view that the counter reply filed by the respondents is highly unconvincing. It is an admitted fact that the husband of the applicant is missing since 27.02.1992. It is also an admitted fact that the applicant is legally wedded wife of the deceased employee Late Shree Ram, who has one son and three daughters. It is also not disputed that the applicant had worked as Gangman. The Railway administration has not yet issued any notice in the name of the deceased husband of the applicant for unauthorized absence from duty. In totality of the facts and circumstances, it can safely be presumed that the husband of the

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applicant is no more. There is also nothing on record to show that the applicant is not nominee of the deceased employee. No record or document has been filed by the respondents to rebut the contentions of the applicant. It is further not disputed that any other claimant except the applicant has come forward to claim for terminal benefits after missing of Late Shree Ram and as such, in our considered view, the applicant being wife of the deceased employee is entitled to get the amount of GPF, Insurance, DCRG, etc.

7. In view of the discussions made above, the O.A succeeds and is allowed. Impugned order dated 25.10.2004 is quashed and set aside. The respondents are directed to release the amount of GPF, Insurance, DCRG, etc. according to rules and law, which should equally be distributed amongst the legal heirs of Late Shree Ram. As the husband of the applicant was working as Gangman, a regular employee of the Railways, respondents are further directed to release the family pension in favour of the applicant as per rules. The entire exercise shall be completed within a period of three months from the date of receipt of copy of this order.

8. There will be no order as to costs.

Anand
MEMBER- J.

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