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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

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Allahabad this the day...15th of...Sep. 1997.

CORAM : Hon'ble Dr. R.K. Saxena, J.M.

Hon'ble Mr. D.S. Baweja, A.M.

ORIGINAL APPLICATION NO. 1192 OF 1987.

1. Phoolmati Devi W/o Late Ved Prakash
2. Raghuvir Singh
3. Rajendra Babu
4. Raj Kumar
5. Dev Singh
6. Gyan Saran Nagar
7. Pushpraj Singh
8. Rajesh Kumar Khanna

(All sons of Late Ved Prakash)

9. Km. Lalita Kumari
10. Km. Swadesh Kumari
11. Km. Anita Kumari

(All daughters of Late Ved Prakash)

R/o Nagla Rati , Near Railway Quarter,
Post Tundla, District-Ferozabad.

(By Advocate Shri A.S. Diwakar)

.... Applicants.

Versus

1. Union of India through Secretary,
Ministry of Railway, Secretariat,
New Delhi.
2. Divisional Railway Manager,
Northern Railway, Allahabad.

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3. Assistant Mechanical Engineer Steam,
Northern Railway, India, District-Agra.

4. Loco Foreman Steam,
Northern Railway, Tundla,
District-Agra.

5. Time Keeper Steam, Northern Railway, Tundla,
District-Agra.

(By Advocate Shri Amit Sthalekar) Respondents

ORDER

By Hon'ble Dr. R.K. Saxena, Member (J)

1. This OA was originally filed by one Ved prakash who died during the pendency of the case and thus his heirs Smt. Phoolmati Devi, Rabhuvir Singh, Rajendra Babu, Raj Kumar, Drav Singh, Gyan Saran Nagar, Pushpraj Singh, Rajesh Kumar Khanna, Km. Lalita Kumari, Km. Swadesh Kumari and Km. Anita Kumari were substituted. The case of Late Ved prakash is that he was appointed as a Callman on 5.5.1958 in class IV service under the respondents. From the year 1958 onwards, the said Ved prakash had been working in Grade III but he was always paid the salary of grade IV employee. Though in the accident which had occurred on 15.5.1973 in which his right hand was lost, he continued in the job of grade III. He made representation but with no result, hence this Original Application was preferred seeking the relief that the salary of grade III employee be

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directed to be given to the present applicants for the services rendered by late Ved Prakash from 1959 to his date of death 5.1.1988.

2. The respondents have contested the case on the ground that the applicant was appointed as class IV employee and he continued as such throughout his service. It is categorically denied that the applicant was ever given job of class III. It is emphasised that whatever record is available with the respondents, it indicates only appointment and duties of class IV employees given to and ~~discharged~~ discharged by Late Ved Prakash.

3. The applicant had filed rejoinder in which the grounds which were taken in the original application, were reaffirmed.

4. We have heard Shri A.S. Diwaker counsel for the applicants and Shri Amit Sthalekar for the respondents. We have also perused the record.

5. The main question for decision in the case is whether late Ved Prakash had ^{ever} ~~averred~~ discharged the duties of class III employee. Since ved Prakash has come with this plea, the ^{onus} ~~onus~~ lies on him to establish that he ^{had} ~~was~~ discharged him ^{the} ~~for~~ duties of class III employees. We find that no documentary evidence in his support has been brought on record. The only evidence available with late Ved Prakash ^{was} ~~that~~ various representations made by him to the respondents. In our opinion, [&] ~~that~~ representations cannot take place of substantive

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piece of evidence for establishing the claim of the applicants. The respondents on the other hand had been constantly stating that late Ved prakash was appointed as Khalasi in class IV category and continued to discharge the duties accordingly.

6. In view of these facts and circumstances we come to the conclusion that the Original Application is devoid of merits and it is, therefore, dismissed. No order as to costs.

S. B. Singh
MEMBER (A)

S. D. Singh
MEMBER (J)

an/