

(W.K.T) (A)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

O.A.No.879 of 1987.

Smt.Gona Bai .....Applicant.

Versus

General Manager & another .....Respondents.

Hon'ble Mr.Justice U.C.Srivastava, V.C.

Hon'ble Mr.A.B.Gorthi,A.M.

( By Hon'ble Mr.A.B.Gorthi,A.M.)

Aggrieved by the fact that her husband was wrongly superannuated from railway service in 1971, whereas he was due for retirement only in 1978 on the basis that he was born in 1920 , Smt.Gona Bai filed this application seeking a direction to the respondents to treat her husband Late Bhagwan Dass as having retired in 1978 and to grant her all consequential benefits including appointment of her son in the railways on compassionate ground.

2. The applicant is the widow of Bhagwan Dass who joined the railways as a Carpenter in 1948 and was retired in 1971. Bhagwan Dass had earlier served in the Army and the service certificate, issued to him on 25.4.47, showed that he was born in 1920. He, being an illiterate person, did not know what was his date of birth or age as recorded in the service book maintained by the railways. As soon as a notice was received by him in 1969 about his retirement in 1971, he represented against it giving the full facts of the case. Despite his representation, he was retired in 1971, whereas he was due for retirement only in 1978. Unfortunately , in 1977 he died of cancer. The applicant's claim that

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her husband should be deemed to have retired in 1978 and that being the widow of Bhagwan Dass, she is entitled to the consequential benefits. She has further prayed that her ~~husband~~ should be appointed in the railways on compassionate ground.

3. The respondents' contention is that ~~xxxx~~ the date of birth of Bhagwan Dass was recorded in the service book as 18.10.13, on the basis of declaration made by him that his age was 35 years on the date of employment(18.10.48). The service record reflecting the date of birth was signed by Bhagwan Dass. He represented against his date of birth only in 1969 i.e. just two years before his retirement. The age reflected in the medical-memo is wrongly recorded on the declaration made by the employee himself that his age was 25 years and that cannot be accepted as proof of his age. The respondents thus contended that Bhagwan Dass was correctly retired in 1971 and since he died after his retirement, his son cannot be given appointment on compassionate ground.

4. We have heard the learned counsel for both the parties. The learned counsel for the applicant vehemently contended that the Military Service Record (Annexure-I to the application) which showed that Bhagwan Dass was born in 1920, should have been accepted by the respondents as an authentic document in support of his age. Had the respondents done so, Bhagwan Dass would have remained in service till his death in 1977, because his superannuation would have been due

only in 1978. The improper and illegal action of the respondents deprived the applicant all the consequential benefits.

5. It is apparent that the Military Service Certificate in respect of Bhagwas Dass was issued by O.C Station Workshop, EME, Jhansi and that it reflected 1920 as the year in which he was born. The said certificate further showed that he worked in the Station Workshop, Jhansi as a Carpenter from 18.11.1946 to 28.4.1947. In view of this, the respondents should have got the authenticity and genuineness of the said certificate duly verified by the concerned Military authorities and taken a suitable decision depending upon the report of the said military authorities. Under these circumstances, we must hold that the respondents acted improperly and hastily in retiring Bhagwan Dass in 1971. Keeping in view the fact that the applicant in this case is not Bhagwan Dass but his widow Smt. Gona Bai, we are inclined to give only a limited relief in this case. The respondents are hereby directed as follows:-

a) Late Bhagwan Dass shall be deemed to have continued in service till the time of his death.

b) No back wages nor any monetary benefits by way of pay and allowances or increased pensionary benefits shall accrue to the applicant.

c) The appointment of Shri Om Prakash son of Late Bhagwan Dass in the railways on compassionate ground shall be considered as per

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extant instructions, keeping in view the direction  
at (a) above.

d) The respondents shall comply  
with these instructions within three months from  
the date of communication of this order.

6. The application is disposed of  
in the above terms without any order as to costs.

*Anurag*  
MEMBER(A)

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VICE CHAIRMAN.

DATED: 26 May 1992

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