

OPEN COURT

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

Dated : This the 7th day of Nov.1996.

CORAM : HON'BLE MR. S. DAS GUPTA, MEMBER-A
HON'BLE MR. T. L. VERMA, MEMBER-J

Original Application No. 324 of 1988

Smt. Shobhawati Tripathi,
w/o. late Sri Devendra Kumar Tripathi,
son of Shri Ram Lekhan Tripathi, resident of
E-/135 A Station Colony, N.E.Railway, Izzat Nagar,
...petitioner.

(C/S Sri Saumitra Singh & Sri Ashok Khare)

Versus

1. Divisional Railway Manager, North Eastern Railway
Izzat Nagar, Division, Izzatnagar.
2. Divisional Signal and Telecommunication
Engineer, North Eastern Railway, Izzat Nagar,
Division, Izzat Nagar.
3. Signal Inspector-I, North Eastern Railway,
Mathura Cantt.
4. Assistant Engineer, North Eastern Railway,
Fatehgarh.

....Respondents.

(C/R Sri A.V.SRIVASTAVA)

O R D E R (Oral)

(By Hon'ble Mr. S. Das Gupta, Member-A)

This O.A. was filed initially by the
applicant seeking the relief of a direction to
the respondent Nos. 1 and 2 to treat him in

continuous service as a Time Scale Khalasi in the Signal and Telecommunication Department at Izat Nagar and to pay him regular salary every month. He also prayed for a direction to the respondents to regularise the applicant as a Class IV employee. During the pendency of the application the applicant died and he was substituted by his widow who by way of amendment application ~~incorporated~~ ^{enlarged} the relief clauses to include the relief of appointment on compassionate ground and also the payment of arrears of salary of her husband since June, 1987. At the time of argument, when it was pointed out to the learned counsel for the applicant that this application suffers from multiplicity of relief, he submitted that he would press only the relief of compassionate appointment and also the arrears of salary. The application was considered and heard accordingly.

2. The admitted facts in this case are that the applicant had been working initially as Casual Labour from 28.10.1990 onwards and he acquired temporary status eventually. He had worked initially at Izatnagar, but later, he was shifted to Mathura as work was not available at Izatnagar. By an order dated 21.7.1987 the applicant alongwith 20 others were directed to report to the Assistant Engineer Fatehgarh for further work. The applicant alleged that although he reported at that Station, ^{was} Initially he told that he would have to start as Casual Labour all over again and subsequently even that was denied and he was not allotted any work.

He kept on representing but, no heed was paid and therefore, he filed this application for the aforesaid mentioned reliefs.

3. The case of the respondents is that the applicant did not report at Fatehgarh on being ordered and the learned counsel for the respondents pointed out that even the relief clause (i) would indicate that he was never interested in reporting at Fatehgarh.

4. We heard the learned counsel for the parties and perused the record carefully. Admittedly the applicant had put in nearly 7 years ^{of} service and also admittedly he had acquired temporary status. It is not the case of the respondents that the applicant was ever discharged from service. Therefore, the applicant was in service when he expired. Thus this could be treated as a case of ~~Dying~~ ^{death} in harness.

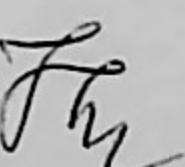
5. There is a dispute of facts as to whether the applicant complied with the orders for reporting at Fatehgarh. According to the applicant he did so while the respondents averred that he never reported. In view of this dispute of facts, we can not grant any relief regarding the back wages and the prayer in this regard is rejected.

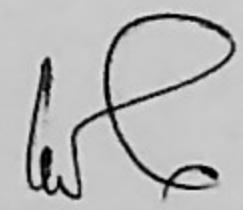
6. We, however, are of the view that since original applicant died while in service and he had acquired temporary status, his widow who is the present applicant, is entitled to be considered

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for appointment on compassionate ground under the extant rules. We, therefore, direct the respondents to consider giving employment to the applicant on compassionate ground in accordance with the extant rules ~~to~~ any group 'C' or 'D' Post ~~suited~~ ^{appropriate} to her educational qualification. Let this consideration be made within a period of 6 months from the date of communication of this order and in case the applicant is otherwise found deserving appointment on compassionate ground, ~~later~~ ^{her} be appointed on a suitable post.

7. With the above directions this application is disposed of. Parties shall bear their own costs.


MEMBER (J)


MEMBER (A)

(Pandey)