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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 874 of 1988

B.S.Saxena ..... Applicants.

Versus

Ministry of Railways  
& others ..... Respondents.

Hon'ble Mr. A.K.Sinha, Member-J

The applicant Braham Swarap Saxena had filed this application and sought the following relief that in the facts and circumstances, the respondents be directed to re-calculate the pension and Death-Cum-Retirement Gratuity and make payment thereof along with interest @ 12 per cent per annum and to quash the impugned order dated 9.10.1987 passed by Deputy C.M.E.(S), Izatnagar, Bareilly.

2. The respondents appeared and filed their Counter Affidavits denying the allegations of the applicant and stating interalia that the re-fixation of pay of the applicant was rightly done as per rules and there was no illegality or violation of the rules committed in this regard and what-ever was illegally due had been submitted on the date of his retirement. It appears that after filing of the Counter Affidavit, sufficient time was allowed to the applicant to file Rejoinder and from the various ordersheets of this court, it appears that inspite of several opportunity, no Rejoinder was filed.

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3. The learned counsel for the respondent Shri Prashant Mathur has filed Misce. petition No. 130/1983 stating therein that the sole applicant B.S.Saxena had expired on 19.11.1991 and he has annexed a photo copy of the death certificate granted by the Competent Authority in support of death of the applicant B.S.Saxena who died on 19.11.1991.

4. No substitution petition has been filed by the lawyer of the deceased applicant.

5. Rule 18 of the Central Administrative (Procedure Rules, 1987) lays down that if the case of death of a party during the pendency of the proceedings before the Tribunal on the legal representatives of the deceased party may apply within 90 days of the date of such death for being brought on record and as necessary parties. Sub clause (2) of the said rule lays down that <sup>where</sup> ~~no~~ application is received from the legal representatives during the period specified in the said Rule (1), the proceeding of deceased shall abate.

6. The sole applicant died on 19.11.1991 and up till now there has not been any substitution of legal heirs nor any petition has been filed on behalf of the legal heirs of the deceased applicant for their substitution. More than 90 days has already lapsed since the death of the sole applicant on 19.11.1991. In the circumstances, this application abates as a whole.

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The application, therefore, abates as a whole.

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Allahabad Dated:  
March 16, 1993,  
(jw)

Arhou Kumar Singh,  
Member (J) 16/3/93.