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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 1392 of 1992

Allahabad this the 30th day of Aug 1995

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

Smt. Kamla Devi, aged about 55 years widow of Late  
Shri Radha Mohan Tewari, R/o 1166/23, Gondu Compound,  
Sipri Bazaar, Jhansi

APPLICANT.

By Advocate Shri R.K. Nigam.

Versus

1. Union of India through General Manager, Central Railway, Bombay V.T.
2. Divisional Railway Manager, Central Railway, Jhansi.

RESPONDENTS

By Advocate Shri Prashant Mathur.

O R D E R (Oral)

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

This O.A. has been filed by Smt. Kamla Devi-  
wife of Late Radha Mohan Tiwari who was a Bearer in  
A.O. Canteen of the office of the Divisional Railway  
Manager, Central Railway, Jhansi.

2. Late Radha Mohan Tiwari started serving as

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Bearer in the Canteen which was a non-statutory canteen we.f. 25.5.1965 and retired on 31.5.1991 and thereafter died on 11.1.1992.

3. The controversy whether the staff of statutory and non-statutory canteens be treated as employees of Railways, according to the applicant, has been settled by the Hon'ble Supreme Court in the case M.M.R. Khan and Others vs. Union of India and Others(1991) 16 ATC 541 where all such employees have been treated railway employees with effect from 01.4.1990 and were held entitled to all benefits <sup>as if</sup> such railway employees with effect from the said date.

4. The contention of the applicant is that despite this legal position, the respondents are not extending the refiral benefits such as pension, gratuity to Late Radha Mohan Tiwari. Hence, this O.A. is filed for suitable directions to the respondents.

5. The respondents contested the case on the ground that the husband of the applicant was not entitled previously to the benefits of railway employee; and thus the amount which was deposited by the respondents with Provident Fund Commissioner towards provident fund and bonus, be refunded by the applicant, Only then the case for pension may be considered.

6. It is, however, clear that the respondents do not dispute the claim of pension of husband of the applicant. The matter, it appears, could not be resolved because the respondents had deposited the provident fund amount with the Provident Fund Commissioner for payment to the employee and the bonus was also paid. The learned counsel for the respondents could not show any specific rule that an employee who could get pension, might be debarred from getting bonus. If, there is such rule only then the refund of ~~pension~~<sup>bonus</sup> amount may be claimed by the respondents. So far as the amount deposited towards provident fund is concerned, it is clear that a pensioner cannot get both the benefits. In case the husband of the applicant got the amount of provident fund, it should be adjusted in the final payment of the amount which may be arrived at after calculating the amount of pension. Learned counsel also contended<sup>Q</sup> that the adjustment of the amount of provident fund without interest, may cause financial loss to the respondents because the said amount would have earned interest to the respondents. In such a situation, the respondents may calculate the amount of interest at the then existing rate on the provident fund which was actually paid either to the husband of the applicant or the applicant herself. The O.A. is disposed of accordingly. No order as to costs.

Member (J)

/M.M./