

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCHALLAHABAD.

Allahabad this the 30th day of August 1995.

Original Application no. 1465 of 1992.

Hon'ble Mr. S. Dayal, Administrative Member.

Smt. Asarfi Devi, Widow of Bindhiachal Rai, R/o B-289/6,
Guru Teg Bahadur Nagar, Allahabad.

... Applicant.

C/A Sri R.G. Padia, Sri P. Padia.

Versus

1. Union of India through the Secretary, Ministry of Railways, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Area Manager, N. Rly., Kanpur.
4. The Chief Commercial Superintendent (Catering), Northern Railway, Baroda House, New Delhi.
5. Senior Divisional Personnel Officer, N. Rly., Allahabad.
6. Senior Divisional Commercial Supdt. N. Rly., Allahabad.

... Respondents.

C/R Sri S.K. Garg.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

The applicant has come to us for a direction to the respondents to pay amount of gratuity with interest of 24 % without further delay.

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2. The applicant is the widow of Late Sri Bindhyachal Rai, who died due to a road accident on while in service on 26.06.89 at age of about 55 years while working as Chief Inspector (Catering) Northern Railway, Kanpur. The other terminal benefits have been given to the applicant but gratuity has been withheld. The efforts of the applicant including a representation dated 24.04.92 have yielded no result.
3. The arguments of Sri P. Padia were heard for the applicant and those of Sri S.K. Garg for the respondent. They reiterated the facts contained in the pleading on record.
4. Annexure 3 to the application shows that even a letter dated 22.04.92 of the Area Manager of Kanpur addressed to Chief Commercial Superintendent (Catering) in the Office of the General Manager, Northern Railway, Baroda House, New Delhi has failed to yield any results.
5. Annexure 3 shows that the Area Manager is helpless in giving a no claim certificate in favour of deceased because clear position of purchases and cash paid cannot emerge in the absence of specific vouchers.
6. The respondents have raised a plea of bar of limitation in giving this application. It is stated that the deceased Chief Inspector did not 'correctly' submit forms CD-I and CD-II from 01.04.89 to 30.06.89 (Para 3 of the counter affidavit) and it is not possible to ascertain actual purchases made by him. Therefore, no clearance certificate could be issued. It is also

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mentioned that the authenticity of Annexures I and II of the application cannot be admitted (Para 10 of the counter affidavit). It is stated that "amount involved" is Rs. Seven Lakhs.

7. The plea of bar of limitation is one which adds insult ~~to~~ injury. The respondents have themselves admitted that they have been unable to give a clearance certificate and pay the amount of gratuity to the applicant. They also do not deny of the efforts claimed by the applicant in trying to get the amount of gratuity paid to her. Annexure III to the application shows that the respondent was showing his helplessness in giving a clearance certificate on 16.04.92 and had not done anything beyond that till July, 1993, when they drafted the C.A under such circumstances the application which was filed on 13.10.92 is well within the period of limitation.

8. The respondents have mentioned that they could not issue the clearance certificate as they were not in a position to ascertain the expenditure incurred on purchase and cash payments. The respondents have been unable to do so for the last six years and there appears be a possibility of their completing this task in foreseeable future. In any case, they would be able to get a onesided picture now as the person said to be responsible for producing the vouchers is no more in this world. The respondents have demonstrated their lack of expedition and their lack of sympathy for the dependents of the deceased employee. Their withholding of payment of gratuity to the applicant for such a long period is

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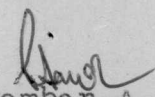
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totally unjustified. They always had the option of generally ascertaining the average monthly expenditure on the basis of record upto March 1989 and now have the option of waiving the recovery or loss which they may be able to work out in future.

9. Since the respondents no. 2 to 6 have not been able to resolve this issue, the respondent no. 1 is directed to ^{make} ~~unable~~ the payment of the amount of gratuity to the applicant along with interest of 14 % thereon with effect from 01.07.89 within a period of three months. The respondent no. 1 is also directed to pay Rs. 5000 as compensation towards the expenses incurred by the applicant in pursuing the matter of payment of gratuity with the respondents.

10. There shall be no order as to costs.


Member-A

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