

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1323 of 1992

Allahabad this the 16th day of April 1999

Hon'ble Mr. S.L. Jain, Member (J)

1. Smt. Takkoo Bai, Aged about 54 years, Widow of Bhagwan Dass-Balli Ex. IIInd Fireman No. 826, Loco Shed, Central Railway, Jhansi, Resident of House No.69/1, Nanak Ganj, Sipri Bazar, Jhansi.

Applicant

By Advocate Shri A.D. Prakash

Versus

1. Union of India through the General Manager, G.M.'s Office, Central Railway, Bombay V.T.
2. The Divisional Railway Manager, Central Railway, Jhansi.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R

By Hon'ble Mr. S.L. Jain, Member (J)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents to sanction ex-gratia pension to the applicant as admissible under the Government of India orders contained in G.O.No.4/1/87-P&PW(PIC) dated 13.6.1988 and other relevant order

on the subject with a direction for payment of the ex-gratia pension ~~on~~ with effect from 01.1.1986 with interest there on till payment alongwith cost of the application.

2. The applicant is the surviving widow of Bhagwan Dass Balli who was employed as IIInd Fireman in Central Railway, Jhansi Loco Shed. She was paid settlement dues by the Letter no.PE-iv/225 dated 05.5.76 totalling Rs.3696/- treating Shri Bhagwan Dass Balli as dead under the rules. The applicant submitted her application for grant of ex-gratia pension in the month of July, 1988 but her application was returned with certain objection contained in letter no.P/ESP-1/Misc., dated 29.9.1988. After rectifying all the defects in the application, the same was submitted in March, 1990 but the same remain pending with the respondents. She was asked to furnish the death certificate of her husband.

3. The applicant's case in brief is that her husband Shri Bhagwan Dass Balli was suffering from mental disorder since 1962 and had been under treatment of Mental Surgeon of Mental Hospital , Gwalior. He had been running away from his home frequently. Finally he left the home and never returned at home and was untraceable . As he was unauthorisedly absent from duty, he was removed from service by an order dated 04.11.1969 contained in letter no.E/219-A/DAR issued by D.S., Jhansi. The removal orders referred above, were issued after dispensing the inquiry and

due to his absence, he could not defend himself at any stage. No appeal could be filed under the circumstances and letter of removal was received by the applicant through postal service, hence, this O.A. for the above said reliefs.

4. The respondents stated that in absence of any record at this later stage, is not possible either to admit or deny the facts stated above. They further submitted that unless a death certificate and relevant papers are submitted, no action can be taken. However, in para-9 of the counter-affidavit, it is stated that now the documents have been received in the last week of August, 1993, particulars have been got completed and submitted to the Senior Divisional Accounts Officer, Jhansi on 23.9.93 for arranging ex-gratia pension.

5. By way of supplementary counter-affidavit it is stated that she is not entitled for ex-gratia pension in terms of Railway Board's circular for the reason that her husband did not retire but his services were terminated.

6. Annexure A-2 Office memorandum dated 13th June, 1988, which entitles a person for ex-gratia pension is as under;

" The undersigned is directed to state that the recommendation of the 4th Central Pay Commission in Part II of its report regarding grant of relief to the families of deceased civilian Central Government employees, who were governed by Contributory Provident Fund Scheme, has been under consideration of Government. The President is pleased to decide that the widows and dependent children of the deceased CPF beneficiaries who had retired from service prior to 1.1.86

shall be granted ex-gratia payment of Rs.150/- p.m. with effect from 1.1.86 ^{or} from the date following the date of death of the deceased employee whichever is later. The ex-gratia payment shall also be admissible with effect from 1.1.86 to the widows and dependant children of the C.P.F. beneficiaries who died while in service prior to 1.1.86."

Perusal of the same makes it clear that one of the criteria for seeking ex-gratia payment is that the employee must have retire from service prior to 01.1.86. Even perusal of the pleadings of the applicant reveals that her husband did not retire from the service but as he was unauthorisedly absent from the duty, he was removed from service by an order dated 04.11.1969 contained in letter no.E/219-A/DAR issued by D.S., Bhangi (annexure A-3).

7. There are other criterias also mentioned in the above referred circular for seeking ex-gratia pension but I am not concerned with the said ^{ones}.

8. The applicant now after lapse of more than 23 years, is not at liberty to challenge the said order dated 04.11.69 under the garb of seeking ex-gratia pension.

9. How the death of an employee is to be established, is a further question raised and argued by the parties before me but it is not necessary to opine on the same for the reason that when the applicant is not entitled to ex-gratia pension, then question of

seeking the same after establishing the death of the employee, does not arise.

10. In the result, the O.A. is liable to be dismissed and is dismissed accordingly with no order as to costs.

plu
Member (J)

/M.M./