

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 5th day of January, 1996

Original Application No. 422 of 1994

District : Bareilly.

QUORUM:-

Hon'ble Mr. S. Das Gupta, A.M.

Smt. Anna Pandey

Widow of Shri Damodar Dutt Pandey

Resident of 156, Madarigate,

Bara Bazar, Bareilly.

(By Sri S.K. Mishra, Advocate)

..... Applicant

Versus

1. Ministry of Railway  
Through Secretary  
New Delhi.
2. General Manager  
Northern Railway,  
New Delhi.
3. Divisional Railway Manager,  
Moradabad.

(By Sri A.K. Gaur, Advocate)

..... Respondents

ORDER (Oral)

By Hon'ble Mr. S. Das Gupta, A.M.

This application was filed seeking a direction to the respondents to pay to the applicant the amount of provident Fund and Gratuity of the applicant's husband and also other pensionary benefits.

2. The facts stated in the O.A. are that the husband of the applicant was a clerk in the Northern Railway on 17-5-1963. He was initially posted at Moradabad Northern Railway Division and was subsequently transferred to the Railway School Bareilly on the post of clerk and he was working on that post when he died on 18-5-1986. It is stated that ever since the death of the applicant's husband, the applicant had been running from pillar to post trying to obtain the refund of the Provident Fund deposits and Gratuity and other pensionary benefit. A number of representations have been made but no response has been received so far. Hence, this application.

3. The respondents have filed a counter reply in which it has been specifically stated that the applicant's husband had tendered resignation which was also accepted and in view of this the applicant is not entitled to any family pension. It has also been stated that after the resignation of the applicant's husband was accepted, certain payments have been made to the applicant and an amount of Rs.3499/- was paid on account of Provident

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Fund accumulations. No other payments are required to be made as having resigned from service the applicant's husband was not entitled to any terminal benefits. The respondents have also taken a plea that the case is highly time barred as the application has been filed only in 1994.

4. The applicant has filed a rejoinder affidavit in which it has been denied that the applicant's husband has been given any resignation letter during his service. It has also been denied that the applicant's husband received the sum of Rs.3459/- as provident fund accumulations.

5. I have heard learned counsel for both the parties and carefully gone through the records.

6. As <sup>by</sup> ~~the~~ direction of the Tribunal, the respondents made available for my perusal the Service Book of the applicant's husband. It was seen from the obverse of Page 2 of the Service Book that there is an endorsement to the effect, "resignation accepted w.e.f. 17-9-1975 A.M." In view of this specific endorsement I put a specific question to the learned counsel for the applicant to indicate whether the applicant's husband was in receipt of salary from 17-9-1975 till 18-5-1986 i.e. the date of his death and, if so, to produce the documentary evidence to such salary payments. The applicant's counsel was given two <sup>days</sup> ~~weeks~~ time to make further submissions in this regard, but he has not taken the opportunity given to him, as sympathetic notice.

7. In absence of any effective rebuttal of the

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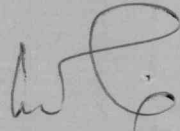


endorsement in the Service Book to the effect that the applicant's husband's<sup>9</sup> resignation was accepted w.e.f.

17-9-1975, I have no reason to disbelieve the averments of the respondents in the counter reply that the applicant had submitted a resignation letter and the same was accepted w.e.f. 17-9-1975. I have also seen from the records produced before me a hand written letter from the applicant's husband addressed to the Divisional Supdt. requesting that the Provident Fund payments be made to him. This letter is dated 21-8-1979. Unless the services of the applicant's husband have come to an end in any manner, there would have been no occasion for him to request for payment of Provident Fund and in that context the averments of the applicant that her husband was in service when he died on 18-5-1986 appears to be totally unsubstantiated. As it is quite clear that the applicant's husband has actually resigned from the service, the applicant is not entitled to any pension under the rules. She, however, cannot <sup>be</sup> ~~be~~ deprived of the Provident Fund dues, if any. The documents produced before me indicate that efforts were made to make payment of the Provident Fund dues to the applicant's husband. He was directed to attend the office of the Divisional Railway Manager on any working day to receive the payment. This letter is dated 9-1-1980. However, it cannot be conclusively stated that the applicant's husband was actually paid the amounts. I would, therefore, direct the respondents to check the records and see whether the payment of the amount was actually made to the applicant's husband or the applicant<sup>10</sup> herself and if

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so, nothing further need to be done. If, however, the payment could not be made, the dues alongwith the interest, which the Provident Fund's accumulations are entitled to under the existing rules, shall be paid to the applicant within a period of three months from the date of communication of this order. The application has, otherwise, no merit and is dismissed subject to the direction as above. There shall, however, be no order as to costs.



Member (A) /

Dube/