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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

C.C.A./Review/M.A. No.

In

O.A. No./T.A. No. 18/95

Date of decision 26 / 4 / 2005

U.O.T. & others

Applicant(s)

CA's Shri B. B. Paul

Counsel for the
Applicant(s)

Versus

Smt. Noor Jahan and another

Respondent/Upp.
Party

CA's Shri A.K. Tewari

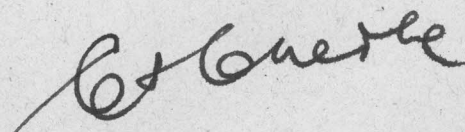
Counsel for the
Respondents/Upp.
Party

COURAM

Hon'ble Mr. C.S. Chakha, V.C./Member (A)

Hon'ble Mr. A.K. Bhattacharya, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wise to see the fair copy of the judgment?
4. Whether to be circulated to all Benches ?


(Signature)

/M.M./

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 18 of 1995

Allahabad this the 26th day of April 2002

Hon'ble Mr.C.S. Chadha, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

1. Union of India through General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway
Allahabad Division, Allahabad.
3. Assistant Engineer, Northern Railway, Etawah.

Applicant

By Advocate Shri B.B. Paul

Versus

1. Smt.Noorjahan, W/o Late Abdul Rasheed, r/o
House No.471, Mohalla Naurangabad, Etawah.
2. District Forum Consumer Protection, Etawah
through its President.

Respondents

By Advocate Shri A.K. Tewari

O R D E R

By Hon'ble Mr.C.S. Chadha, Member (A)

The case of the applicant is that husband of the respondent no.1 had worked in the Railways as a Gangman and he was not a regular employee, ^{and therefore} he was not entitled to pension. However, due to his death in an accident, the respondent no.1 applied for pension from the Railways. The Railway denied any pension to the respondent no.1 and therefore, she filed a civil suit in the Court of Munsif, Etawah


B.B. Paul

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(O.S.No.340/1973) and the Munsif passed an order in favour of the respondent no.1 granting her a family pension of Rs.40/- per month w.e.f. 8.8.71. The railways went in appeal against the order and the IIInd Addl.District Judge, Etawah vide his Judgment dated 02.02.85 rejected the appeal and upheld the order of the Munsif. Therefore, the pension order paying Rs.40/- per month became final and binding on both the parties. However, on 12.9.92 the respondent no.1 filed case no.270/92 in Consumer Protection Forum, Etawah. On a particular date fixed for hearing before the Consumer Protection Forum, Etawah i.e. 05.07.94 the applicants did not appear before the Forum and therefore exparte order was passed granting the respondent no.1 a family pension of Rs.375/- per month w.e.f. 01.01.1986. This O.A. has been filed challenging the order of Consumer Protection Forum to grant the applicant a pension higher than that awarded by the Munsif and later upheld in appeal by the Additional District Judge on 02.02.1985. The main contention of the applicants is that since the matter relates to family pension on the ground of service with the railways of the deceased husband of respondent no.1, this matter is a service matter and cannot be dealt with by the Consumer Protection Forum.

2. In their counter-affidavit, the respondent no.1 has merely denied the averments of the applicant that the matter does not fall within the purview of the Consumer Protection Forum without

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mentioning any specific provision under which the matter can be heard by the Consumer Protection Forum. It is undisputed that the pension granted by the Munsif in 1973, because the Tribunal was not in existence at that time, was only on account of the services of the late husband of the respondent no.1 as a temporary Gangman. Family pension of a deceased employee of the Railways is a matter which can only be dealt with by the Administrative Tribunals Act under the provision of Section 28 of the Administrative Tribunals Act, 1985, which excludes the jurisdiction of all the Courts except the Supreme Court under Article 136 of the Constitution. The Industrial Tribunal can also look into the cases relating to the Labour Court but the Consumer Protection Forum has no jurisdiction over the cases relating to ~~the~~ family pension of the deceased temporary government employee of the railways.


3. In this case only short point ^{is} ~~is~~ to be considered and decided ^{whether} ~~whether~~ the Consumer Protection Forum, Etawah was justified, that too in the year 1994, when the Tribunal had long come into existence, in deciding a matter relating to pension. The family pension ~~was~~ decided by the Munsif in the year 1973 had become final due to the order of the IInd Addl. District Judge on 02.02.1985. Any alteration in the family pension is a matter to be decided only by the Central Administrative Tribunal and the Consumer Protection Forum has no jurisdiction in the matter.

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In the absence of any argument to the contrary, due to non-appearance of both the counsel for the parties, we come to the conclusion that the Consumer Protection Forum has no jurisdiction in the matter and therefore order dated 05.07.94 fixing the family pension at Rs.375/- is beyond their jurisdiction and, therefore, null and void. In effect, the O.A. is allowed. Impugned order is quashed. The family pension of the respondent no.1 shall remain Rs.40/- per month as decided and finalised by the Civil Courts prior to coming into force of the Administrative Tribunals Act, 1985 unless suitably modified by a competent court. No order as to costs.


Member (J)


~~Member (A)~~

/M.M./