

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 122 of 2002

Allahabad this the 09th day of January, 2003

Hon'ble Mrs. Meera Chhibber, Member (J)

Karorvati (Smt.), aged about 60 years, W/o Late  
Shri Shiv Prasad, R/o Village Tikardih, P.O. Bharwari  
(Bisara), District Allahabad/Kaushambi.

Applicant

By Advocate Shri K.K. Misra

Versus

1. Union of India through the General Manager,  
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,  
Allahabad.
3. Chief Administrative Officer (Construction)  
Kashmiri Gate, Delhi-6.
4. Deputy Chief Engineer (Construction), Northern  
Railway, Lucknow.
5. Executive Engineer (Construction), Northern  
Railway, Allahabad.
6. Assistant Engineer (Construct) (II), Northern  
Railway, Lucknow.

Respondents

By Advocate Shri Avnish Tripathi



O R D E R ( Oral )

By Hon'ble Mrs. Meera Chhibber, Member (J)

By this O.A. the applicant has claimed a direction to the respondents to disburse the entire family pension and D.C.R.G. alongwith relief thereon and arrears that have been withheld with interest at the rate of 12% per annum from the date on which it became due and payable to the applicant. She has also sought \* direction to the respondents to pay family pension from month to month and to pass such other and further order as may be deemed necessary in the circumstances of the case.

2. The brief facts as narrated by the applicant are that her husband expired on 27/28-11-77 while he was performing his duties as Head Trolleyman under P.W.I. (Construction), Lucknow. She has submitted that her husband was initially employed under respondent no.5, but subsequently transferred and posted under the control of respondent no.4 when he took his last breath while he was on duty. She has submitted that she is an illiterate lady and at the time of her husband's death she had three minor children and she had no knowledge regarding D.C.R.G. or family pension nor anyone came to her help in such a critical condition. However, applicant's husband was working in a pensionable job, hence she was asked to submit a succession certificate. Same was issued by the Tehsildar and Magistrate on

12

28.12.77(annexure A-1). Vide letter dated 31.01.78 the applicant was asked to present herself with all documents so that the settlement dues could be cleared. *l* (annexure A-2). She was further informed vide letter dated 08.08.78 that an amount of Rs.198.70 is due of her husband from the salary of December, 1977 which may be obtained after obtaining the succession certificate (annexure A-3) but since she was not aware of the procedure, she could not pursue the matter. It was only after the son attained ~~the~~ majority and he came to know that they were entitled to ~~the~~ certain benefits, he started pursuing the matter. When the matter was brought to the notice of the Hon'ble Minister for Railways, he wrote a letter to the respondents and it was then pointed out by the report submitted by Shri Kati Ram Bhoria that the widow was not in a receipt of the family pension (annexure A-4). Her Son-Kamlesh Kumar also applied for compassionate appointment giving the details of the deceased family(annexure A-5). Thereafter, there have been number of letters written by one officer to others asking them to submit the service record and leave account of the deceased for finalising the settlement dues, but till date no concrete decision has been taken nor any payment made to the applicant. The issue was raised even by the Union in P.N.M. meeting, which is evident from the letter written by the respondent no.4 on 03.08.99(annexure-A 7). Therefore, finding no other remedy, the applicant had filed this O.A.

*B*

3. The respondents have submitted that as per the relevant rules the admissible settlement dues was to be done in two parts;

- (i) Payment of last salary, P.F. money and Insurance money by Construction Unit PWI(C) Lucknow;
- (ii) Family Pension and D.C.R.G. by Divisional Railway Manager, Allahabad in case the applicant's husband was holding lien in Allahabad Division.

They have submitted that lot of efforts have been made by the Office of D.R.M., Allahabad and Deputy C.E.E.(C), Lucknow to locate the relevant records, but the same could not be located due to non-availability of the records as the case is very-very old. Therefore, the claim of the applicant cannot be considered and is liable to be rejected on the ground of law of limitation, and failure on the part of the applicant to submit the proper claim in time. They have further submitted that since the applicant had remained silent for over 23 years, it reflects the question whether she is a genuine claimant or not. They have further submitted that the certificate of Tahsildar dated 28.12.1977 is the legal heir certificate and not a succession certificate, as stated by her. Moreover, she has not submitted proper and prescribed settlement form alongwith the legal heir certificate dated 28.12.77 of Tahsildar for identity verification by the P.W.I.(C) Lucknow , Deputy C.E.E.(C) Lucknow

B

and further processing the case for settlement dues payment. They have further stated that the applicant's claim for settlement dues payment on prescribed settlement form was to be verified and decided by the P.W.I.(C) Lucknow and thereafter submitted to D.R.M., Allahabad lien holder for arranging payment of family pension and death gratuity. The settlement of P.F. money and Insurance money was to be done by the office of P.W.I.(C) Lucknow before forwarding the pension settlement papers to D.R.M., Allahabad for arranging payment of family pension and death gratuity. The Office of P.W.I.(C) Lucknow have also failed to locate the relevant record and could not advise the settlement payment position of P.F. and Insurance money to the applicant. As far as the claim of the applicant's son is concerned, it has already been rejected by the letter dated 31.01.2000 and the claim for family pension and D.C.R.G. could not be settled due to non-availability of the time barred records. Letter dated 31.01.2000 is annexed as annexure C.A.-1.

4. I have heard both the counsel and perused the pleadings as well.

5. The pith and substance of the respondents' reply is that since this is a very old case, the records are not available <sup>therefore</sup> ~~and the~~ applicant is not entitled to any relief. It is not disputed by the respondents that Late Shri Shiv Prasad had expired on 27/28.11.77

...pg.6/-

*B*

while performing his duties as Head Trolleyman under P.W.I.(Const.), Lucknow. On the contrary, I find there are number of letters written by the respondents themselves whereby the applicant was initially called to clear the settlement dues of her husband, and as late as in 1990 it was so said in the letter dated 05.03.90 at page 18. It is thus clear that Late Shri Shiv Prasad was employed in Construction department at Allahabad at the time of his death. Thereafter annexures-6 and A-7 were also issued requesting to Deputy C.E.(Const) Northern Railway to find out the aforesaid records from the D.R.M. Allahabad Office so that union items may be cleared, meaning thereby it cannot be said to be a case where they are unable to get the details but probably the request was not being taken seriously as it was an old case. If the husband of the applicant had died due to an accident while he was performing his duties as a Trolleyman, it was the duty of the department to depute a Welfare Inspector to approach the family of the deceased employee and apprise them of all the formalities, which they were required to complete for getting the settlement dues. No such effort was made by the respondents by deputing any Welfare Inspector. Indeed they had issued ~~two~~ letters to the applicant informing her to clear the settlement dues, but since the case of the applicant is that she is totally illiterate and did not know the procedure it is quite understandable that she could not pursue the matter otherwise had she known that she was to get any benefit from the railways, she would not have left the opportunity, and definitely



would have claimed the same. In the present case, we cannot put entire blame on the respondents because it is true that it is very old case so it was not easy for the respondents to locate the settlement records after such a long time. Nonetheless an effort can be made, and I am sure that in case they want, the records can be made available if only someone takes genuine interest in the case. The blame is partly to be put on the applicant because if only she had applied in time, all this litigation could have been saved. Since the respondents have stated that the applicant has not filed any proper papers, even now, she is directed to submit proper papers for clearing the settlement dues with the help of the Welfare Inspector, which shall be provided by the respondents for the assistance of the applicant. Once the applicant files the proper papers alongwith all the certificates as required by the respondents, the respondents shall make an effort to locate the records (as they already know that her husband Late Shri Shiv Prasad was working as Head Trolleyman under Construction Organisation, Allahabad at the time of his death, which is apparent from the report submitted on 05.03.90) and pass appropriate orders within 6 months.

6. In view of the above discussions, I do not agree with the contentions raised by the respondents counsel that **this** case should be thrown out on the question of limitation. Family pension, D.C.R.G., P.F. and the amount of salary due to her husband are all payments, which are to be given to the dependants

...pg.8/-



of the deceased employee after his death by the respondents. They would not be doing any favour to the applicant by releasing the amount to the applicant as the same are admissible under the law. Even otherwise, family pension claim is a continuous cause of action and since the applicant is stated to be an illiterate lady who had three minor children at the time when her husband expired, I reject the objection of the limitation in the given circumstances of the case. The O.A. is disposed off with a direction to the respondents to provide assistance of Welfare Inspector to the applicant so that she may file proper papers in proforma alongwith the required certificates to the respondents within a period of two months from the date of receipt of a copy of this order and the applicant shall fully co-operate with the Welfare Inspector. After receiving the proper papers, the respondents shall make an effort to locate the records from the Construction Organisation, Allahabad and clear the settlement dues of the applicant within a period of six months thereafter as this is an old case and it would require some time to verify the facts. This exercise shall be supervised by the respondent no.2 so that some net result comes out. No order as to costs.



Member (J)

/M.M./