

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.

Original Application No.527 of 2002.

Allahabad this the 13th day of May 2003.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

1. Smt. Gangajali
wife of Late Girdhari.
2. Pokharaj Prasad
son of late Girdhari
Both resident of Village-Basani,
Post Office-Janso Ki Mari, District Chandauli (Varanasi)

.....Applicants.

(By Advocate : Sri C.P. Gupta)

Versus.

1. Union of India
through the General Manager,
Eastern Railway, Fairly Place,
Kolkatta.
2. The Divisional Railway Manager,
Eastern Railway
Mughalsarai.

.....Respondents.

(By Advocate : Sri K.P. Singh)

_O_R_D_E_R_

By this O.A., filed under section 19 of Administrative Tribunals Act 1985, the applicants have prayed for quashing the impugned orders dated 18.06.1996 and 20.03.1998 (Annexures 1 and 2) by which the claim of the applicants for appointment on compassionate ground has been rejected.

2. The ground stated for rejection of the aforesaid claim is that eldest son of deceased employee was already in service as Gangman in Northern Railway, thus this fact is not denied, ^{that} The family was rendered without bread earner and view taken by the respondents in refusing to grant appointment on compassionate ground cannot be said to be



illegal and arbitrary.

3. The second relief prayed for by the applicant is for grant of family pension. It is not disputed that husband of applicant late Sri Girdhari was serving as Chaukidar in Engineering Department of Eastern Railway, under Section Engineer (P Way), Chandauli Majhwar. He died in harness on 08.01.1995. In the facts and circumstances, the applicant No.1 being widow is entitled for family pension. On the facts mentioned in Annexure 10 which is calculation of average emoluments, family pension and D.C.R.G. etc. Late Girdhari Lal was appointed on 02.02.1964 as Casual Labour. He was granted temporary status on 16.02.1989 and he died on 09.01.1995 that is after serving in temporary status as casual labour for about 6 years. Thus, the applicant under rules was entitled for family pension, in view of the judgment of this Tribunal dated 23.04.2003 in O.A. No.1537/99 Smt. Mandodari Devi Vs. Union of India and others. The Division Bench of Hon'ble High Court in Civil Misc. Writ Petition No.32239 of 1999, Senior Superintendent of Post Offices, City Division, Kanpur Versus Rajesh Yadav and another has taken similar view, it is being re-produced below:

"Sri Satish Chaturvedi, learned counsel for the petitioner has submitted that Sunder Lal Yadav was not a regular employee of the department and therefore, after his death, his son is not entitled to claim appointment on compassionate grounds. It is urged that in spite of the fact that temporary status was conferred on him, he continued to be a casual worker and therefore the claim of respondent No.1 has wrongly been allowed by the Tribunal. We are unable to accept the submission made by the learned counsel for the petitioner is not in dispute that Sunder Lal Yadav worked continuously as Chaukidar for almost 12 years. It is also admitted to the petitioner that he was conferred temporary status with effect from 29.11.1989. A person who has been granted temporary status is not excluded from the definition of a Government servant as given in the scheme of the department laying down the procedure for making compassionate appointment (Annexure-3 to the supplementary affidavit)".



4. The D.A. is accordingly allowed in part. Though the claim of the applicant for appointment on compassionate grounds is not accepted, however, respondents are directed to grant family pension including arrears to applicant No.1 in view of the order of this Tribunal dated 23.04.2003 mentioned above. The order shall be complied with within 6 months from the date, a copy of the order is filed.

No order as to costs.



VICE-CHAIRMAN.

Manish/-