

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 805/02

TUESDAY, THIS THE 7TH DAY OF JANUARY, 2003

HON. MRS. MEERA CHHIBBER, MEMBER (J)

Smt. Lila Devi wife of late Munna Lal,
r/o House No. 77, Mehalla Mehevya,
Near Chhoti Masjid, Puliya No. 9,
Jhansi.Applicant

(By Advocate:-Shri L.C.Pandey)

Versus

1. The Union of India through General Manager,
Central Railway, Mumbai.
2. The Divisional Railway Manager (Karmik),
Jhansi.
3. The Station Superintendent, Central Rly,
Jhansi. Respondents.

(By Advocate:- Shri K.P.Singh)

O R D E R

HON. MRS. MEERA CHHIBBER, MEMBER(J)

By this O.A, Smt Lila Devi, wife of Late Munna Lal has claimed a direction to the respondents to grant family pension to the applicant and to pay all arrears of pension from the date of ^{death of} applicant's husband i.e., 12-4-1997 in accordance with law and to pass such other and further orders which this court may deem fit in the circumstances of the case.

2. The facts as narrated by the applicant are that the applicant is widow of Late Munna Lal who was Class-IV employee working as Safaiwala in the office of respondent No. 3, He died on 12-4-1997 ~~and~~ leaving behind his widow and three sons namely Surendra aged about 24 years, Mahendra aged about 21 years and Hira aged about 19 years.



It is further submitted by the applicant that as per the service record her husband was appointed as Safaiwala on 21-5-1973 and his date of birth is 1-10-1953 and that he was given pay scale of Rs. 757-940. It is clear that he was a confirmed and regular employee of the respondents. She further submitted that the account number of deceased is 03287221 and ECC Account number is D-8333. After death of her husband the applicant has submitted number of representations with regard to family pension, final payment of the G.P.F, Gratuity and arrear of salary of the deceased and also prayed for compassionate appointment to be given to her son (representation dated 11-7-1997 as Annexure-2). Thereafter, the applicant gave number of remainders but no reply was given by the respondents. Therefore, being aggrieved she put up her grievance before the pension court on 30-10-2000 and also sent a legal notice to the respondents on 23-7-2001 on the advice of legal counsel but no one is hearing the grievance of the applicant. Thus being aggrieved and finding no other remedy the applicant has filed the present O.A.

3. The respondents have opposed the O.A and have submitted that Shri Munna Lal was working as Safaiwala under Station Superintendent and appointed on 21-5-1973 but was removed from service on 28-7-1994. The order is annexed as Annexure CA-I which shows that the applicant's husband has been removed from service after holding him guilty in the inquiry. The applicant's husband was informed that under rules 18 & 19 of the Railway servants (P.D & A) Rules 1958 he could file an appeal against these orders to DME, Central Railway Jhansi within 45 days from the date he received the orders. The applicant's husband did not prefer any appeal against the said order and accepted the same and only subsequently ~~total~~ he died on 12-4-1997. Accordingly the widow is ~~■■■~~

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entitled for NCPF of Rs. 8070/- which has already been passed vide Co. 7 NO. 070155 dated 22.5.2001. The cheque no. 900211 dated 22-5-2001 has already been given to the applicant and the same has been encashed on 30-7-2001. ^{husband of} They have further submitted that since the applicant ^{had} been removed from service after holding him guilty in the inquiry and he had died three years thereafter compassionate appointment is not permissible as per rules. They have thus submitted that the O.A is devoid of merits and same may be dismissed with costs.

4. I have heard the learned counsel for the respondents and perused the pleadings.

5. Admittedly the applicant's husband had been removed from service vide order dated 28-7-1994 after holding him guilty in the inquiry against which the deceased employee had preferred no appeal and even in the present O.A, the said order has not been challenged. The applicant has not even bothered to file a rejoinder to the counter affidavit filed by the respondents nor the counsel for the applicant was present today when the case was called out even in the revised list. Therefore, the averments made by the respondents are believed as there is no reason to doubt the same. Since the deceased employee had been removed from service in the year 1994 itself and ^{was} at the time of his death, he is not even in service. There is no question of granting compassionate appointment to his son as there is no such rule available. As far as gratuity is concerned, Rule 65 of Railway Services (pension) Rules 1993 categorically states that the Railway servant who is dismissed ~~or~~ forfeits his pension and gratuity. Accordingly the applicant is not entitled to either pension or gratuity.

6. In view of the above directions there is no merit in the O.A. The O.A is accordingly dismissed with no order as to costs.



Member (J)

Madhu/