

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. CONTEMPT PETITION NO. 174 OF 2003

IN

ORIGINAL APPLICATION NO. 1015 OF 1998
ALLAHABAD THIS THE 16th DAY OF January 2004.

HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A
HON'BLE MR. A. K. BHATNAGAR, MEMBER-J

Smt. Prema alias Premawati Devi,
Harizan Basti, Mauaima Township,
Post Mauaima, Allahabad.
presently residing in
village Harakhpur Post Harakhpur,
District-Pratapgarh.

.....Applicant

(BY Advocate Shri S.K. Pandey)

Versus

Smt. Mahua Verma,
The Divisional Railway Manager (P),
Khadagpur Division South Eastern Railway,
Khadagpur (West Bengal).


.....Respondents

(By Advocate)

ORDER


HON'BLE MAJ GEN. K.K. SRIVASTAVA, MEMBER-A

This contempt petition has been filed for punishing the respondent for wilful dis-obedience of the order dated 13.03.2003 passed in O.A. No.1015/98. The O.A. No.1015/98 was filed for payment of retirement benefits of her husband which were legally due to her on the day and date of her husband's death, which includes P.F. dues, gratuity amount, insurance benefits and family pension for which the applicant is entitled alongwith the interest on retirement dues and total arrears. The O.A. was disposed by the following order:-



"Shri Mangroo Prasad has died on 17.10.1983. The applicant has already submitted a representation alongwith document on 09.12.2002, which is evident from Annexure A-3 filed alongwith the supplementary affidavit, therefore, I am of the considered view that the Div. Railway Manager(P), Khadagpur, Midnapur, West Bengal may get the facts verified as submitted by the applicant from their own hospital records and if it is found correct that the applicant's husband had died on 17.10.1983 in the Railway Hospital and, there is no other claimant except the applicant in that case subject to the condition that the applicant gives the original certificate to the respondents or fulfil any other formality, which is required by the authorities, they may calculate the amount, which are due to the applicant and pay the same to her within a period of 4 months from the date of receipt of a copy of this order. From the facts as narrated above, it is clear that the delay cannot be attributed to the respondents at all because it was applicant's own mistake that she did not give the correct date of birth to the respondents and the respondents had infact been requesting her all this time to produce the original death certificate so that the case may be processed, therefore, applicant would not be entitled to any interest on the amount which shall be paid to her. With the above directions, the O.A. stands disposed off. The applicant is directed to co-operate with the respondents fully for finalising her own case. No costs."

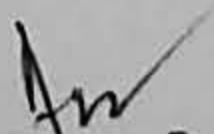
2. Shri S.K. Pandey, learned counsel for the applicant submitted that instead of settling the dues of the widow, which accrued after the death of the applicant's husband, the respondents have passed the order dated 30.08.2003 (Annexure A-4) rejecting the claim of the applicant on the ground that the status of the applicant's husband was that of a substitute Shed Khalasi only, and the applicant is ^{not} entitled for any family pension or any pensionary benefits. ^{by} Relying upon the judgment of the Hon'ble Supreme Court in the case of T.R. Dhananjay Vs. J. Vashudeve reported in JT 1995(6) SC 234, ^{by} The learned counsel for the applicant submitted that the claim of the applicant was already accepted by the respondents in the O.A. and now the respondents cannot go into the eligibility of the applicant for DCRG and pensionary benefits etc.

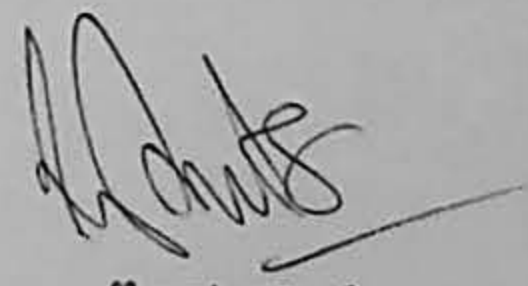


3. We have heard counsel for the applicant and perused the records.

4. We have carefully perused the order dated 30.08.2003. The respondents in the said order have clearly stated that Late Mangroo Prasad, husband of the applicant died on 17.10.1983, while his status was a substitute shed Khalasi only. The respondent has categorically stated in the order that as per extant rules substitutes are not deemed to be a Railway Servant, unless they are absorbed in the regular Railway Service, as such family pension or any pensionary benefits are not admissible. The respondent has also stated in the said order that the amount due on account of Provident Fund was already passed for payment on 20.12.1983 i.e. soon after the death of the said Late Mangroo Prasad, husband of the applicant. Perusal of the record of the original file does not establish that the respondents at any point of time accepted the claim of the applicant. The direction of this Tribunal dated 13.03.2003 was to calculate the amount, which may be due to the applicant. The respondents have examined the case and have categorically stated in the order dated 30.08.2003 that no dues are pending for payment to the applicant. The order of this Tribunal stands complied with and no case of contempt is made out. Applicant may pursue the remedies provided under law if still not satisfied.

5. In view of the above, in our considered opinion, no case of contempt is made out. The contempt petition is rejected in limine.


Member-J


Member-A

/Neelam/