

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 207/92

~~**TAX NO.**~~

DATE OF DECISION 19.12.1997

Smt. Lakhiben Narayan Petitioner

Mr. K.K. Shah Advocate for the Petitioner (s)

Versus

Union of India & Others Respondent

Mr. A.S. Kothari Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. T.N. Bhat, Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ? ~
2. To be referred to the Reporter or not ? ~
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? ~

Smt. Lakhiben Narayan
Behind Swaminarayan Temple
Meda Grain Shop, Hapa.

Address for service of notice:

Mr. K.K.Shah, Advocate
3, Achalayatan Society, Div. II
B/H Memnagar Fire Station
Navrangpura, Ahmedabad- 380 009.

Applicant

Advocate: Mr. K.K. Shah

Versus

(1) Union of India Notice to be served
 through
 General Manager,
 Western Rly.
 Church Gate, Bombay.

(2) Divisional Railway Manager,
Rajkot Dn., Kothi Compound, Rajkot.

(3) Chief Personnel Officer, Western Rly.,
Churchgate, Bombay.

Respondents

Advocate: Mr. A.S.Kothari-

ORAL ORDER

IN

O.A./207/92

Dated 19.12.1997

Per Hon'ble Mr. V.Ramakrishnan, Vice Chairman:

We have heard Mr. Shah.

2. The applicant was given compassionate appointment on the death in harness of her husband who was a railway servant. Initially she was engaged on compassionate casual labour basis and subsequently her services got regularised. It is her claim that in 1970, the applicant sought voluntary retirement on medical grounds by which time she had opted for pension. It is common ground that she no longer

continued in railway service from 17.7.1990. The Railways contend that she left service on her own and that she was not in the normal course eligible for pension and retiral benefits. The applicant's stand is that under the relevant rules a person who is medically incapacitated is entitled to some pension and retiral benefits and in terms of that rule, she will be eligible to receive such benefits.

3. The question centers around the controversey as to whether the applicant had left service on medical invalidation or she had left on her own. Some material has been produced on behalf of the applicant in support of her contention. The Railways however question these documents and according to them, they do not maintain records for such long periods. The Railways have produced what they call an extract from a Register which states that the applicant had resigned w.e.f. 14.7.70. This is seen as enclosure to Annexure R-1 to the reply statement of the D.P.O. Rajkot. According to Mr. K.K. Shah, this does not ~~reflect~~ reflect the correct position. He also submits that certain records are available regarding her contribution to the provident fund account, copies of which had been produced. It is also his contention that ^athe register is generally maintained every year of persons who are medically invalidated in a particular year. Besides he says that the


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Divisional Accounts Officer is expected to maintain personal records pertaining to entitlements of railway servants and such records should be available even at present as in terms of the rules pertaining to preservation of records, these documents are expected to be retained for a period of thirty years.

4. In the light of the position explained above, it is clear that the issue hinges on a factual question as to whether the applicant had left office service on medical invalidation or not. In the circumstances, we hold that it would be appropriate for the railway administration to conduct a detailed enquiry and come to a finding on this factual question. For this purpose, this entire O.A. maybe taken as an additional representation by the applicant. They shall also make efforts to locate whatever records are available with them and which are expected to be retained as contended by Mr. K.K. Shah, in the Divisional Accounts Branch and the Divisional Medical Office. They will also give an opportunity to the applicant to produce whatever material she has in support of her claim. After conducting this inquiry they ^{shall} will come to a finding and issue a speaking order which should be communicated to the applicant immediately thereafter. The entire exercise should be completed within four months from the date of receipt of a copy of this order.

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5. With the above directions, this O.A. is finally disposed of. No costs.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

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