

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 354/93
T.A.NO.

DATE OF DECISION 23.06.1998

Mrs. Janakba

Petitioner

Mr. B.B. Gogia

Advocate for the Petitioner [s]

Versus

Union of India and Others

Respondent

Mr. N.S. Shevde

Advocate for the Respondent [s]

CORAM

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

The Hon'ble Mr. Laxman Jha, 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 Lerdships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? *✓*

Smt. Janakba,
Village & Post: Bhopalka,
Taluka Jam Khanbaliya,
District: Jamnagar.

... Applicant

(Advocate: Mr. B.B. Gogia)

VERSUS

1. Union of India,
 Owning & Representing
 Western Railway,
 Through:
 General Manager,
 Western Railway,
 Churchgate,
 BOMBAY - 400 020.
2. Dy. Chief Engineer (Const) North,
 Western Railway,
 Office of the Dy. Chief Engineer
 (Construction) North,
 2nd floor, BG Station Building,
 P.O. Railwaypura,
 AHMEDABAD - 380 002.
3. Divisional Railway Manager,
 Western Railway,
 Rajkot Division,
 Kothi Compound,
 RAJKOT.

... Respondents

(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A./354/93

Dated: 23.06.1998

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

We have heard Mr. Gogia for the applicant and Mrs. Safaya for the respondents.

2. The applicant, a widow whose husband was originally recruited as a Project Casual Labourer in the Rajkot Division has challenged the action of the railway administration in refusing to give her family pension.

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Contd.. 3/-

3. The husband of the applicant was engaged as a Project Casual Labourer from 11.9.78. He was also granted temporary status from 1.1.83. He continued in service as a casual labourer but expired in service on 21.5.88. The husband's name is stated to have been listed at Sl. No.544 of the Seniority List notified by the Rajkot Division dated 24.12.87 with working days of 2258 days. Mr. Gogia for the applicant claims that the husband in the normal course could have been regularised soon after such a seniority list was published but the question of regularisation of such casual labour got entangled in litigation. He also states that a number of persons who are junior to the applicant's husband had been regularised and that the delay in regularisation of the applicant's husband should not be allowed to stand in the way of the claim for family pension of the applicant.

4. Mr. Shevde states that for whatever reasons, the applicant's husband was not regularised in service and as such, in terms of the relevant rules, the applicant is not entitled to family pension. He however admits that there was a screening held in the year 1988 against the existing vacancies in Rajkot Division and a panel was also notified in the year 1988 but the same was cancelled and it was renotified in the year 1989. The applicant's husband had unfortunately expired on 21.5.88 which was earlier to the renotification.

5. We have carefully considered the rival contentions. From the submissions, it is clear that the family pension has been denied on the ground that the husband was not regularised before his death, whatever may be the reason. The applicant has contended that a number of her husband's juniors had been regularised but the date of regularisation has not been indi-

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cated. In the circumstances, we hold that the applicant may submit a detailed representation to the DRM, Rajkot furnishing the names of any persons who are junior to her husband and who are regularised from a date prior to 21.5.88 which is the date on which the applicant's husband had expired. The Railways shall enquire into this aspect and if it is established that any such junior was regularised from a date prior to 21.5.88, they shall also issue formal orders regularising the applicant's husband with effect from the date on which such junior was regularised. In such an event, the applicant would be entitled as per rules for grant of family pension.

6. Mr. Gogia submits that the delay in regularisation was not on account of any fault on the part of the applicant's husband but on account of administrative and other difficulties. He also refers to some decisions of the Tribunal which are enclosed with the OA.

7. In view of this in addition to the directions given above and if it becomes necessary, we grant liberty to the applicant to submit a detailed representation bringing out these aspects particularly the ~~availability~~ ^{validity} of vacancies against which the applicant's husband could have been accommodated, and also referring to the various judgments relied upon by Mr. Gogia and seeking for regularisation of the applicant's husband from a date prior to 21.5.88. As the present OA has been pending with this Tribunal for some years, the Respondents particularly respondent no. 3 shall consider any such representation on merits without raising the plea of limitation, and come to an appropriate finding. If such a representation is filed within one month, the respondent no. 3 shall dispose

of the same within three months from the date of receipt of the same. While taking such a decision, the respondent no. 3 shall take into account the various court decisions and also the beneficial nature of the family pension scheme available to the dependants of deceased regular employees.

8. With the above directions, the OA is finally disposed of. NO costs.

ASW
(Laxman Jha)
Member (J)

President
(V. Ramakrishnan)
Vice Chairman

hki

Date

M A. St. 941/98 in O.A. 354/93
Office Report

O R D E R

2-2-99

Today the case is taken on
Board. The learned counsel
Mr. Gogia is present. He has
submitted VaKalatnama and prays
for time for filing the index
with the copy of the order. Hence
time granted and the matter be
adjourned to 23-2-99 for filing
index with the copy of the order.


(A.S. SAYED)
Registrar

SSN

10-2-99

2/ Submitted

objection have been
complied with. of appeal
will be registered.

10/2/99

SO(3)

On 10/2/99
3rd 10/2/99

DR(3)

O R D E R

DATE	OFFICE REPORT	ORDER
23.2.99		<p>Seen M.A. 84/99 and also heard Mr. Shevde. M.A. is allowed and the representation stated to have been submitted on 16.12.98 to DRM Rajkot shall be considered and disposed of on merits by the Railways within three months from that date namely by 15.3.1999. M.A. stands disposed of accordingly.</p> <p style="text-align: right;">(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>

DATE	OFFICE REPORT	ORDER
23.2.99		<p>Seen M.A. 84/99 and also heard Mr. Shevde. M.A. is allowed and the representation stated to have been submitted on 16.12.98 to DRM Rajkot shall be considered and disposed of on merits by the Railways within three months from that date namely by 15.3.1999. M.A. stands disposed of accordingly.</p> <p style="text-align: right;">(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>

CENTRAL ADMINISTRATIVE TRIBUNAL, DEL.

Application No.

0A1354/83

of 19

Transfer application No. _____

Old Write Pet. No. _____

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 16/10/88

Countersigned.

Section Officer/Court Officer.

Signature: 929/7

MGIPRRND—17 CAT/86—T. S. App.—30-10-1986—150 Pads.

RD
14/10/88

K. S. S. S.
Signature of the Dealing
Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE 0 AJ 354/83

NAME OF THE PARTIES Mas. Janakba
VERSUS

Union of India & Ors.

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Oral order dt - 23/6/88

dt. 23/2/99

MA/84/99 Reply Dated

50-57

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