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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 195 of 1990.

Decided on :- 25th. July, 1991.

Smt. Halima Bibi ... Applicant.

Versus,

Union of India & Ors. ... Respondents.

For the applicant:-

M/s. Akhil Mohapatra,
P.C. Rout, H.N. Mall,
Advocates.

For the Respondents:

Mr. D.N. Mishra,
Addl. Standing Counsel,
(Central).

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C O R A M :

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL) .

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1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ? No.
3. Whether their Lordships wish to see the fair copy of the Judgment ?

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J u d g m e n t .

Sengupta, Member (J) .

This is an application by the widow of one Alizan Khan for family pension.

2. The short facts of the case are that Alizan Khan was admittedly an employee of the Sourth Eastern Railway and he died while in service. It is also undisputed that the said Alizan had filed nomination in respect of G.P.F. dues in the event of his death before receiving them. In that nomination for giving G.P.F. dues, the names of the applicant and another Soni Bibi, both described as wife of the said Alizan Khan, were mentioned. It is also not disputed that on the death of Alizan in 1978, the applicant was paid half of the provident fund dues and amount towards the special contribution to the Provident Fund. The applicant's case is that she made a representation in December, 1978 about 12 to 13 days after the death of her husband Alizan. The applicant's main prayer has been indicated above, besides that, she has also prayed for payment of death-cum-retirement gratuity, money equivalent of unutilised leave and some insurance dues.

3. The Railway Administration in their reply have averred that no representation of the applicant was received in December, 1978 but a representation was received by Railway Administration on 23.8.89. They have further averred that no insurance due was payable to Alizan, as such the applicant cannot maintain any claim

*See Encl
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for such non-existent amount. In substance, they have ~~passed~~^{prayed} for dismissal of the application.

3. Mr. A.K. Mohapatra, the learned counsel for the applicant, has very strenuously contended that the Railway Administration taking advantage of the ill^etracy of a Mohammadan woman as the applicant is, have come to deny the receipt of the representation which was really handed over on 27th. December, 1978 and intoken of the receipt of the same, ~~original~~^{the} Receiving Officer put his signature on the carbon copy with the seal of office ~~inserted~~^{impressed} on the said copy. Mr. Mohapatra has also filed an affidavit sworn by an Advocate's clerk to the effect ~~th~~ that the applicant had made a prayer on 26.12.78 to allow her to come over to family pension scheme as her husband had died while in service. Mr. D.N. Mishra for the Railway Administration stated that Administration did not receive any such paper. Mr. Misra was allowed time to get instructions relating to the copy of ^{genuineness of the seal on the} ~~the copy of the introduced~~ and also ~~the~~ ^{employer's} the drawal of ~~disputed~~ contribution to the Provident Fund of Late Alizan. Mr. Misra has not been able to get any further instructions. Having regard to the impression ^{of} the seal on the carbon copy produced and the affidavit filed in this case, there is little room to doubt the genuinness of the seal and, for that ~~the~~ matter, ~~the~~ the making of the representation by the applicant on 26/27th December, 1978. The parties have agreed that the option

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to come over to the pension scheme including the family pension ^{would} ~~can~~ be exercised by a person in Railway service prior to the ^{end of the} year 1978 and in case the employee died, the exercise of option ^{would} ~~can~~ be made by the family of the deceased within the said prescribed time of 31st. December, 1978. Such being the legal position and on facts the applicant have^y been able to prove that she exercised option by handing over a ^{later} ~~later~~ representation concerning the matter on 27.12.78, ^{be} ~~it~~ is to be found that the applicant is entitled to family pension.

4. From the copy of the G.P.F. nomination form to which a short reference has been made a little above, it would be found that the children of the deceased Alizan are no longer minors and further that the applicant is one of the two co-widows of Alizan. There might have been some difficulty had there been any ^{minor} ~~child~~ of the deceased to share the pension payable but as the children have become majors, the family pension has to be divided between two widows, Soni and Halima Bibi. In order to ^{be} ~~be~~ able to draw family pension ~~long past~~ if he or she has received the special contribution to the provident fund, ^{should} ~~refund~~ such deposit and there upon he or she ^{would be} ~~is~~ entitled to family pension. Mr. Mohapatra for the applicant has not been able to say specifically the amount received by the applicant towards the special contribution to the provident fund but he accepts

Mr. Mohapatra
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that the applicant has received an amount as the special contribution to the Provident Fund.

5. In the circumstances stated above the respondent Railways are directed to pay the applicant half of the admissible family pension on the applicant's depositing within two months hence the special contribution of Provident Fund that she has received. The applicant has not been able to place any material to show that the deceased Alizan was entitled to any payment towards insurance, therefore this part of the prayer is unacceptable. Though the applicant made a representation as far back as in December, 1978 she did not refund the special contribution and must have ^{reaped} ~~come to~~ the advantage of ^{flowing} ~~throwing~~ from being in possession of that amount. In fitness of things the applicant should be paid family pension from April, 1990, the time when she filed the application in this tribunal. Her arrear pension from April, 1990 should be calculated and paid within two months from the date of deposit of the special contribution of Provident Fund by the applicant. In case the payment is not ^{made} ~~paid~~ within the time indicated above, interest at the rate of 12% per annum will run on the amount due at the end of each month.



M. S. Gupta
..... 25.7.91
Member (Judicial).

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
I. Hossain/ 25.7.91.