

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

ORDER DATED 12-4-2001.

Heard Shri N. R. Routray, learned counsel for the applicant and Shri B. K. Bal, learned Addl. Standing Counsel for the Respondents and have also perused the records. In this Original Application, the applicant has prayed for grant of family pension w.e.f. August, 1994 with arrears. There is a prayer for a direction to release the provident fund, CGEGIS and other benefits. Respondents have filed counter opposing the prayer of applicant. No rejoinder has been filed. We have perused the pleadings of the parties.

For the purpose of considering this Original Application it is not necessary to go into too many facts of this case. Admittedly, the applicant's husband was working as CPC Gangman and he passed away while in service of the Rlys. on 1.2.1994. Respondents have stated that this has not been denied by the applicant by filing any rejoinder that on the death of the applicant's husband, applicant was given compassionate appointment as a substitute in Gr. 'D' category in Engineering Deptt. in order dated 2.3.1999. Applicant's case is that her husband worked from 24.12.1970 and he was also sent for medical examination with a view to regularise his services and he was found medically fit but before actual regularisation could be done of the services of the husband of the applicant, he passed away on 1.2.1994. In the context of the above facts, the applicant has asked for payment of pension. In support of her contention that her husband worked from 1970, applicant has enclosed at Annexure-1 a letter purportedly issued by the Sr. DEN, Khurda Road to PWI, Jajpur Keonjhar Road in which his services

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from 24-12-1970 to 23-5-1971 for 389 days; 4.8.1986 to 17.11.1986 for 106 days; 3.7.1987 to 29.10.1987 for 110 days and 24.6.1988 to 9.7.1988 for 16 days are stated to have been supported by working certificate.

Respondents in their counter at para-5 have stated that applicant's husband was actually engaged in these four spells as has been mentioned at Annexure-1 but he was engaged against sanction of temporary labour regularisation and his services were terminated w.e.f. 11.7.1988 as he was declared unfit in B-1 category after medical examination. It is stated that after termination of his service, applicant's husband underwent medical treatment in SCB Medical College & Hospital, Cuttack and after he became fit he applied for reconsideration of his case for engagement as casual labour. After medical examination he was again re-engaged from 9.11.1992 and he attained temporary status on 5.3.1993. After rendering 10 months and 20 days service as temporary status worker, applicant's husband passed away. The above averments have not been denied by the applicant.

From the above it appears that the service of applicant's husband was not regularised and therefore, his service as casual labour with temporary status will not entitle the applicant to get family pension. Law is well settled that for getting family pension the husband of the applicant should have been regularised in Rly. service. As that is not the position in the instant case, it is clear that the applicant is not entitled family pension and <sup>his</sup> prayer is accordingly rejected.

D.S.M.

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Applicant has mentioned that Provident Fund and KEGESIS amount should be ordered to be paid to her. In the O.A. no averment has been made about the details of the ~~case~~ <sup>these claims</sup>. As the applicant is an illiterate person, it is necessary for the Respondents to take step and checkup if this amount has actually been paid to the applicant. If the same has not actually been paid, the same be paid to the applicant within a period of 90 days from the date of receipt of a copy of this order. We also direct that in case the applicant's husband was contributing to the provident fund and the amount has not been paid to the applicant then the amount should bear interest of 12% per annum from the death of the applicant's husband till the date of actual payment. This is subject to the condition that the amount has actually been payable and has not been paid to her.

With the above observations and directions, the Original Application is disposed of. NO COSTS.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
*Parliament*

KNM/CM.

Last Record  
Received on 9.5.01

Three copies of  
final order  
H. 12.4.2001 issued  
to counsels for  
both sides. *Parliament*

S.00

*Parliament*