

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Ord. dt. 7.7.04

copies of order  
prepared for counsels  
for both side.

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Shri T.K. Mohanty  
Secy (T)

Order dated 07.07.04

Heard Shri T.K. Mohanty, Ld. Counsel for the applicant and Shri B. Pal Ld. Addl. Standing Counsel ( assisted by Shri P.K. Mishra ) appearing on behalf of the Respondents.

2. Applicant, Smt. Chandri Naik, wife of late Prasanna Naik who was working as shed Khalasi LOCO under the Respondent expired on 24.06.1991 has submitted that on the death of her husband She had applied for compassionate appointment for her elder son viz. Guru Naik. Besides that she had made a claim for family pension. The grievance of the applicant is that the Respondents have not given her any of the reliefs prayed for. Therefore, she has approached this Tribunal to redress her grievance.

3. Mr. T.K. Mohanty, Ld. Counsel for the applicant stoutly argued that the husband of the applicant having been engaged by the Respondents as substitute Shed Khalasi from July, 1985 to June 1991 should have been declared a temporary Railway servant and his family should have been given all the benefits available to a temporary Railway servant in-terms of the conditions laid down for the substitutes in para 2318 of the Railway Estt. Manual. In support of his claim he has relied on the judgement of the Apex Court reported in

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AIR of 1996 Supreme Court Page 752 (Prabhati Devi Vs. Union of India) and submitted that a substitute who had rendered six months of continuous service was to be treated as a temporary Railway servant under para 2318 of Railway Estt. Manual and therefore, the applicant is entitled to family pension under the Pension Rules.

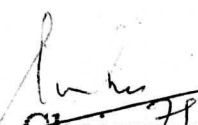
4. Mr. P.K. Mishra Ld. Counsel for the Respondents has stoutly refuted the above argument of the applicant by submitting the extract of the working particulars of the late husband of the applicant as Shed Khalasi for the period from July 1985 to December, 1990. He has stated that the applicant's husband was never engaged continuously for six months and in the circumstances the family could not claim the benefit under para 2318 under Indian Railway Estt. Manual Vol-I.

5. Having heard both the sides the short point that arises to be answered is whether the husband of the applicant would be entitled to benefit of para 2318 of Rly. Estt. Manual and whether on the basis of the working particulars submitted by the Respondents it could be declared that the late husband of the applicant had fulfilled the conditions as laid down in para 2318 of the Railway Estt. Manual referred to above. From the chart submitted by the Respondents it is clear that the late husband of the applicant had been engaged in spells i.e. for 2 days to 31 days in the months of June 1985 to

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December 1990 and he was never engaged continuously for months together. That being the facts of the case, I am unable to persuade myself to be at one with the argument of the Ld. Counsel for the applicant that her late husband in fact had attained the status of a temporary Railway servant. In other words, as the late husband of the applicant was not engaged continuously during the period from July 1985 to December 1990 for more than a month, I am unable to declare him eligible for grant of benefits available to a temporary railway servant under para 2318 of Indian Railway Estt. Manual. This being the position of the law the O.A is disposed of being devoid of merit. No costs.

  
Vice-Chairman