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O.A. No.1209/04

ORDER DATED 20th NOVEMBER, 2007

Coram:

DR. K.B.S. RAJAN, MEMBER(J)

Since none had appeared for the Applicant when the matter was called in its turn, I granted a pass over. None also appeared for the applicant on second call.

2. When this OA was initially listed on 01-03-2005, order of the bench was, "put up the case when moved." Later, for interim order, copy was served upon the other side on 20-05-2005. No further transaction took place thereafter and the case is now listed before the court for orders. Now for admission, copy has been service.

3. Briefly, the facts of the case are that the applicant's son Narasingha Brahma was employed in the railways as Khalasi for 26 years but was removed from service on 11-04-1989 on the ground of unauthorized absence. He had expired on 02-06-1994. According to the applicant, the deceased, was a bachelor and under the customs, applicant's grandson was adopted by the applicant for funeral



ceremony of her son late Narashingha Brahma. There was no deed of adoption. The applicant had made representation for settlement of terminal benefits, etc., after the demise of her son in the year 1997.

4. Earlier OA 1314 of 2003 was filed which was disposed of by order dated 30-12-2003 with a direction to the respondents to treat the very OA as representation of the applicant and the same be disposed within 90 days.

5. In compliance with the above order, the respondents have acted, by detailing the Welfare Inspector to make enquiries, and the above particulars have been the out come of such enquiry by the welfare inspector. Respondents have rejected the claim of the applicant inter-alia on the following ground, vide impugned order at Annexure A-8:-

"In course of discussion you have disclosed that you have already received P.F. Settlement dues amounting to Rs.4218/- and it has also been noticed that your son has already been paid with the amount subscribed towards Rly. Employees Insurance Scheme (REIS) and after witch over of said scheme to Nation Group Insurance Scheme (NGIS) no subscription could be made by your son on account of his long unauthorise absence.

You are well aware of the fact that your son was removed from service under punishment notice dated 11.04.1989 under RS D&A rules 1968 for his unauthorise absence from duty w.e.f. 19.12.1981 as such his entire past service has been forfeited as per provision made under Manual of pension Rule - 1950. Accordingly pensionary benefit cannot be extended.

Hence you are not entitled for the following relief(s) sought for by you:-

(i) In case of removal from service the past service rendered by employee is being fulfilled and no benefit is extended to employees. As such you are not entitled for service benefits and pension.

(ii) Since your son has died after removal from service question of compassionate ground appointment is not permissible as per extant rule even the deed of adoption is legally in order.

This disposes of the direction of the 'Hon'ble CAT's order dated 30.12.2003".

6. The reasons given by the respondents seem to be fully within the provisions of the Rules governing the grant of pension etc., Receipt of Rs.4218/- being the provident fund accumulation by the applicant settles the account of the applicant's son. The only aspect to be considered is whether there was any arrears of pay and allowances due to the applicant

at the time of removal for, his absence was w.e.f. 19-12-1981 and obviously salary would not have been disbursed for the period up-to 19-12-1981. This aspect has to be verified from the records and any due on account of pay of the applicant's son for the period from 1-12-1981 to 18-12-1981 if not paid [or for that matter for any other anterior period as well) should be worked out the and the same should be paid to the applicant, disregard of limitation for claiming the amount.

7. The OA is disposed of with a direction to the respondents to ascertain from the records, as to whether the applicant's husband was paid the pay for the aforesaid period and if not the same be paid to the applicant within a period of six months from the date of communication of this order. It is expected that relevant records which relate to payment of pay and allowances due for the period of 1981 would not have crossed the retention schedule if any.

No cost.


MEMBER(JUDICIAL)