

2

O.A.NO. 727 /2002.

ORDER DATED 16-08-2002.

Heard. Perused the Office note. This Original Application be registered and a number be given.

Yashpal
16/08/2002
MEMBER (JUDICIAL)

ORDER DATED 16-8-2002.

Heard Mr.N. R.R outray, learned counsel for the Applicant and Mr.D.N. Mishra, learned Standing Counsel for the Railways (on whom a copy of this Original Application has been served).

The services of the husband of the Applicant were regularised in Gr.'D' post under the Railways. Later, on the strength of the instructions issued under and Annexure-1, dated 26-4-1989, the said regularisation in Gr.D post was antidated to 01-04-1973 under Annexure-2 dated 6-7- 1993. Non-payment of arrear differential wages (w.e.f. 1-4-1973) is the subject matter of grievances of the wife of the deceased Railway servant, in this Original Application u/s.19 of the A.T.act,1985. It appears from Annexure-1 dated 26-4-1989 that pay of the Gr.D officials whose regularisation had been antidated w.e.f. 1.4.73 was to be fixed in appropriate regular scale of pay w.e.f. 1-4-1973. Relevant portion of Annexure-1 dated 26-4-1989 is extracted below for ready reference:-

3
O.A.NO. 727/2002.

Contd.....Order.....Dt.16-03-2002.

Pay of those whose date of regularisation would thus be put back to 1-4-1973 should be fixed in the appropriate regular scale of pay w.e.f. 1.4.1973 and difference of pay and allowances due and drawn, if any be paid.

On the face of the aforesaid clear position, as given out under Annexure-1 dated 26.4.1989, the Applicant, who is the wife of the deceased Govt. servant, is entitled to the arrear differential wages w.e.f. 1-4-1973, if not already paid to the husband of the Applicant; because for the reason of the following directions given under Annexure-1 dated 26-4-1989;

absence and/or breaks in casual service on or after 1.4.1973 of those who fulfilled the above conditions, if any, may be regularised by grant of leave/extraordinary leave which would be entitled to on regularisation of casual service.

However, it is to be noted that mere existence of a right/claim, is not enough to rush to the Court/Tribunal for redressal. One must try to redress his/her grievances before the Departmental Authorities and in the event the authorities ^{fail to} ~~did not~~ redress the grievance, then only one can approach the Court/Tribunal. In the aforesaid premises, this Original Application is disposed-of by granting liberty to the Applicant (by to make a representation to the Respondents, enclosing a copy of this order) within a period of 15 days praying for payment of differential wages of her late husband and in the event of such representation is filed,

4

the Respondents are directed to consider for payment of arrear differential dues of the late husband of the Applicant, if not already paid, as due and admissible under the Rules, within a period of 60 days from the date of receipt of such representation as directed above. There shall be no order as to costs.

Manoranjan Mohanty

16/08/2002

(MANORANJAN MOHANTY)
MEMBER (JUDICIAL)

Copy of order
dt. 16/8/02
despatched to the
Counsel for
both sides.

D.M.
S.O.
23/8/02

My
22/8/02
Dropped matter
m. A. 992/02 by
consideration,
copy served.

Bench

My
11/11/02

Copy or order dt. 12/11/02
despatched to both parties to all the factors
by post. The same
copy despatched to the
Counsel for both
sides.

D.M.
22/11/02

S.O.

Order dated 12.11.2002.

MA. No. 992/2002.

Heard learned Counsel for
both sides on MA 992/2002. Prayer
for extension of time is allowed and
time is granted till 31. 01. 2003 to
comply the order dt. 16. 08. 2002.
Mr. Rath, Lt. St. Counsel for the
Railways / Respondents undertakes to
comply the order dt. 16. 08. 2002 by
the date fixed. MA 992/02 is accordingly
disposed of.

Send copies of this order

despatched to all the factors.

Manoranjan
Mohanty

Member
(Judicial)

My
22/11/02