

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Order dt. 23.11.04

Applicant is absent on call. Despite repeated chances the applicant has not served the copy of the M.A 730/04. ~~box~~ and also not filed the correct address of R-3. It is therefore presumed that the applicant does not want to pursue the M.A. Call on 04.01.05 box bearing of respondent if any.

Done  
23/11/04  
R.B.

Plaint not filed

My  
S/1/05

Registers

Order dt 18.1.05

Applicant is absent and no steps taken to file rejoinder even after availing several chances. It is presumed that he has no rejoinder to file. Pleadings are therefore deemed to be completed.

Let the matter for final hearing after hearing of the Ready list.

Done  
18/1/05  
REGISTRAR

For hearing-

My  
27/1/05 - Bench

Order dated 18.2.05

None appeared for the applicant however Mr. S.K.Ojha, Ld.Counsel for the Respondents is present.

This is a year old case of 2002, neither the Ld.Counsel for the applicant is present to prosecute the matter nor any formal request has been made seeking adjournment.

In the said premises the matter cannot be dragged on independently and, therefore, I <sup>will</sup> have heard the matter ~~in~~ assistance of Mr. S.K.Ojha, Ld.Counsel for the Respondents.

The case of the applicant (Smt. Benga Dei) is that her husband Late Shri Sama Biswal was engaged as casual labour by Inspector of Works, Inp Bsdp (GNCD) at Balugaon from 4.5.67 to 23.8.67 and from 8.9.67 to 23.9.67. She has also disclosed that her husband was retrenched from service in the month of February, 1978 but he was not taken back to duty by the Respondents although they have followed this policy in respect of the similarly placed casual labourers. <sup>While</sup> ~~As~~ her husband was awaiting a call from the Respondents, he died in December 1996 leaving his family in distress.

Her claim that he had, before his death, worked continuously for a period of 12 years as Gang Khalasi but the Respondents have not given her any benefit of ex-gratia, pension in terms of the circular dtd. 12.7.1988 (Annexure-2).

The Respondents have resisted the O.A. by filing a detailed counter in which they

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have disclosed that the application is misconceived and full of factual inadequacies.

First is that Annexure-2 referred by the applicant is not proper as the said circular is applicable to the employees who have died while being member of the C.P.F. (Contributory Provident Fund) Scheme. On the otherhand, the husband of the applicant was purely a daily rated casual labourer who had worked for short while as per the submission made by the applicant ( Respondents have expressed their inability to verify the service particulars of the deceased husband of the applicant as it lacks the specific reference of the office/authority who had engaged the applicant's husband). They have also raised the point of limitation as the O.A. has been filed long time after the applicant's husband deceased as casual labour. Finally, they have stated that the applicant's husband having not been a regular railway servant and was not <sup>a member</sup> ~~retired~~ of the contributory PF Scheme at the time when his death took place, the application has no legal basis to sustain.

Having heard the 1<sup>st</sup> Counsel for the Respondents and having perused the records placed before ~~the~~, I find lot of force in the arguments of the 1<sup>st</sup> Counsel for the Respondents that the applicant has not been able to prove that her husband was either granted temporary status and in that capacity he had served 6 years before his death or he was regularised after being granted temporary status and for these circumstances, the family

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Copy order of 18/2/05  
despatched to the Consul  
in both sole

W.W.  
S.D.

28/2/05

of the deceased could not have been entitled  
to pension.

In view of the above position of law  
and keeping in view the facts of the case,  
I have the painful duty to dispose of this O.A.  
being without merit. No costs.

  
Vice-Chairman/87