

7

O.A. No. 290 of 2008

Order dated: 28.10.2009

CORAM:

Hon'ble Mr. Justice K. Thankappan, Member(J)
Hon'ble Mr. C.R.Mohapatra, Member (A)

Heard Mr. A.C. Sarangi, Ld. Counsel for the applicant and Mr. D.K.Bhera, Ld. Additional Standing Counsel for the Respondents.

2. The wife of a Railway servant, who was working as casual labourer with temporary status and retired from service on 30.04.2006 attaining the age of superannuation while working under the Deputy Chief Engineer, Construction-I, East Coast Railway, Jajpur, Keonjhar Road (Respondent No.4), has filed this O.A. ~~However~~, The said Railway employee died on 26.09.2007. The deceased Railway employee had approached this Tribunal earlier in O.A. No. 111/07 for regularizing his services. But since the said O.A. was not considered due to lack of materials, this Tribunal allowed the applicant to withdraw the same. Subsequently, he filed O.A. 195/08 and the same O.A. was also withdrawn for the same reason. Thereafter the

80

applicant, the widow of the deceased Railway employee, has filed the present O.A. with the following prayers:

"8(i) to direct the Respondents to grant family pension to the applicant with consequential benefits.

(ii) to pass such other order."

3. This Tribunal admitted the O.A. and issued notice to the Respondents, and in pursuance to the notice received from this Tribunal, a counter has been already filed for and on behalf of the Respondents, in which the short stand taken is that though the husband of the applicant was working as a casual labourer with temporary status, his services were not regularized and that apart some criminal case inquiry has been already there in which the husband of the applicant was alleged to have been involved. However, it is stated at page 4 of the said counter that the case of the applicant has been reviewed and taking into gravity of the case, an Office Order was issued by the Railways that the Railway Service Status, i.e., the Temporary Status be continued and regularization of his service had not been considered till the date of superannuation as per letter of the Dy.CE/C/MCS bearing No. DCE/C/MSC/E/Conf/dated

13

27.1.1986. Finally, it is stated in the counter that the case of the applicant is devoid of any merit and hence, the O.A. should be dismissed.

4. We have considered the claim of the applicant and we have also perused the records now produced before this Tribunal regarding the service particulars of the husband of the applicant.

5. It is an admitted case in the counter that the husband of the applicant was working as a casual labourer with temporary status and his services were not regularized. However, it has to be noted that as per the Railway Rules and the service condition of such temporary employees, the temporary service would also be considered for regularization by the Respondents sympathetically moreover in the light of the fact that the husband of the applicant himself had filed a representation for regularization of his services with all service particulars as evidenced from Annexure-A/8 dated 26.2.2006. If we consider the said materials placed before the authorities, it is incumbent on the part of the Respondents to give an answer to the said representation as per the existing service rules.

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6. In the above circumstances, this O.A. can be disposed of by directing the 4th Respondent to dispose of the said representation, a copy of which shall also be presented to the 4th Respondent by the applicant within one month from today, and if such copy is served on him, the said representation shall be considered in the light of the prayer now canvassed in this O.A. within a reasonable time at any rate within 60 days from the date of receipt of a copy of this order, provided the applicant files a copy of this order as well as Annexure-A/8 before 4th Respondent within one month from today. Ordered accordingly.

7. With the above observation and direction, the O.A. is disposed of. No costs.

Champal
MEMBER (A)

Ukappan
MEMBER (J)

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