

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

OA.1463 of 1996

Date of Order: 15.01-98.

SINGLE BENCH

Present: Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.

SMT. BINA DEBI

-VS-

UNION OF INDIA & ORS.

For the petitioner: Mr. P.C. Das, counsel.

For the respondents: Mr. P.K. Arora, counsel.

Heard on: 15.01-98.

O R D E R

S.N. Mallick, V.C.

Division Bench is not sitting to-day.

Hearing the ld. counsel appearing for the petitioner, the application is admitted for adjudication and on consent of both the parties, the matter is taken up to-day for final disposal as on day's list, <sup>by Single Bench.</sup> Reply filed to-day be kept with the record. No rejoinder is necessary.

In the present application, the petitioner has challenged the order dated 5th September, 1996 passed by the Chief Works Manager, Liluah (Annexure-D) which has been passed in compliance with the order of the previous Bench of this Tribunal passed in OA.494 of 1996 on 1.7.96. The previous application filed by the present petitioner was disposed of by the previous Bench with a direction upon the respondents, particularly the respondent no.2, who is also the respondent no.2 in the present application, to dispose of the representation made by the applicant on 28.4.92 by

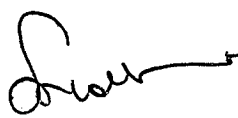
passing a speaking order within two months from the date of communication of the said order with intimation to the applicant.

Admitted fact is that the husband of the petitioner, one Laxmi Narayan, was an employee of MR Shop of the Respondents. The said Laxmi Narayan died on 19.6.1973. Annexure-A is the original representation of the petitioner to the respondent no.2 praying for settlement of dues of the said Laxmi Narayan. It has been stated there that in the year 1959 ~~the~~ said Laxmi Narayan got sick and went to the native village and he was declared mentally upset by the doctor and that due to his mental ~~unbalance~~<sup>derangement</sup>, he could not serve after 1959 and ultimately he died on 19.6.73. So, admittedly, the husband of the petitioner discontinued to work under the respondents after 1959. In Annexure-D, it is stated that the Ticket No. of the said Laxmi Narayan was MR-646. It is also stated there that according to the entry in the official register, the said Laxmi Narayan, ex-ticket no.MR 646, was removed from railway service on 22.9.59. The normal inference would be that the said Laxmi Narayan was removed as admittedly, he did not join the service before the alleged date of removal which is also borne out as per the statements made in the original representation as per Annexure-A to the petition. It is submitted by Mr.Arora, ld.counsel appearing for the respondents, that under the railway rules, there is no provision to pay any pensionary benefit to any member of the staff who is removed from railway service except the provident fund deposits. It is, however, noted in the impugned order that PF dues could not be ascertained by the authorities after the lapse of 37 ~~hs~~ years. Mr.Arora, ld.counsel, has taken up the point of limitation in the matter of preferring such claim on the part of the petitioner. But, I do not find any substance in such contention as the pensionary benefit is a continuing

right but at the same time, conduct of the petitioner cannot be overlooked. Her husband died in 1973 but <sup>the</sup> ~~has~~ <sup>for the</sup> first <sup>time</sup> made her representation for release of alleged dues to the respondents only on 26.8.91. Be that as it may, after hearing the ld.counsel appearing for the parties and after going through the materials on record, I do not find any substance in the claim of the petitioner to pray for family pension on account of death of her husband who was removed by the authorities from service w.e.f.22.9.1959. But, regarding release of PF dues, the <sup>defence</sup> ~~difference~~ taken by the respondents that the amount of PF dues could not be ascertained due to want of proper records after a lapse of 37 years, is not justifiable. Respondents must have the official records and if official records are not traceable/~~within~~ <sup>then</sup> a legitimate claim of an employee or his legal heir for release of PF dues cannot be denied.

Accordingly, the respondent authorities, in my view, should be directed to ascertain the Provident Fund dues lying in the credit of the husband of the petitioner till the date ~~he~~ <sup>the husband of the petitioner</sup> was removed from service and to release the same to the petitioner.

Accordingly, the application is allowed in part but no order as to costs. Respondents, particularly the respondent no.2 <sup>on</sup> ~~is~~ <sup>is</sup> directed to ascertain the Provident Fund dues of the late Laxmi Narayan, the husband of the petitioner and to release the same to the petitioner on proper authority and according to rules within 8 weeks from the date of communication of this order. The application is disposed of.

  
(S.N.Mallick)  
Vice-Chairman.