

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 197 Of 1996

Present : Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member
Hon'ble Mr. M.K. Misra, Administrative Member

SMT. KUNTI BALA DAS

Vs.

1. Union of India, Service through the General Manager,
S.E. Rly., Garden Beach, Calcutta - 700 043.
2. Sr. Divisional Personnel Officer, S.E. Rly., Kharagpur.
3. Divisional Engineer (III), S.E. Rly., Kharagpur.
4. The Permanent Way Inspector, Dantan, S.E. Rly.,
Midnapore.

For the applicant : Mr. A. Chakraborty, Counsel

For the respondents : Ms. U. Dutta (Sen), Counsel

Heard On: 6.12.2004.

Date of Order: 17.12.2004

O R D E R

Mr. Mukesh Kumar Gupta, JM:

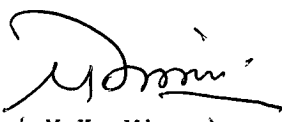
By the present application, Smt. Kuntibala, widow of late Shri Harekrishna Das seeks a declaration that her husband is deemed dead as his whereabouts are not known for the last 14 years with consequential benefits including direction to respondents to release pensionary benefits.

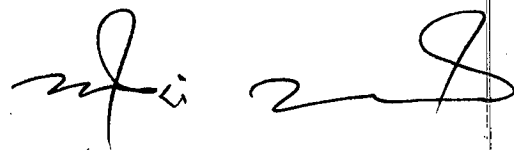
2. The facts as stated are that the applicant's husband was initially appointed as Gangman in the year 1987 and attained temporary status and subsequently he was regularised. On 24.10.81, a notice of dismissal was served upon him on the ground that he participated in the picketing and obstructing the Railway track causing inconvenience and hardship to the travelling public. Subsequently he was reemployed and posted as Gangman vide order dated 3.8.83. He left home on 25.10.81 and thereafter did not return home despite all possible search. Since his whereabouts are not known, under the law he is deemed dead. It is stated that the applicant is entitled to family pension, pensionary benefits, etc.

3. The respondents in their reply contested the applicant's claim and stated that a penalty of dismissal was imposed with effect from 25.10.81 (R-2) in the interest of Railway and also of general public. Subsequently, it was decided to provide reemployment as a new entrant, but unfortunately, the said order of reemployment could not be implemented as the applicant was not found and subsequently missing since the night of 25.10.81. It is further contended that the dismissal order stands good. As far as the payment of terminal benefits are concerned, it was pointed out that the sum due has already been paid on 10.11.96.

4. We heard learned counsel for the parties. It is an admitted fact that the applicant's husband suffered a penalty of dismissal with effect from 25.10.81. It is also an admitted fact that the reemployment order could not be implemented as her husband was not available. It is well settled that when an employee suffers the penalty of dismissal, no terminal benefits become due. In any case, whatever had been due to the applicant, were paid on 10.11.96. It is not the case of the applicant that the aforesaid penalty order was set aside, challenged before any Court.

5. In view of the discussion made hereinabove, we do not find any justification in the applicant's claim and the same is accordingly dismissed. No costs.


(M.K. Misra)
Member (A)


(Mukesh Kumar Gupta)
Member (J)