

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.287/2009

Date of decision:21.11.2011

**HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER,
HON'BLE Mr. SUDHIR KUMAR, ADMINISTRATIVE MEMBER.**

Smt. Kamla W/o Shri Gurbachan Singh Ex.T No.1206, aged around 65 years, Resident of Near Shiv Mandir, Ranisar Bas, Behind M.S. College, Bikaner, husband was working Ex.Khalasi-T.No.0433 under respondent No.4.

: Applicant

Mr. Nitin Trivedi, counsel for applicant.

Versus

1. Union of India, through General Manager, North-Western Railway, Headquarter Building, Jaipur.
2. The Divisional Railway Manager, North Western Railway, DRM's Office, Bikaner.
3. The Chief Workshop Manager, North Western Railway, Workshop, Bikaner.
4. Chief Mechanical Engineer, Workshop, North-Western Railway, Bikaner.

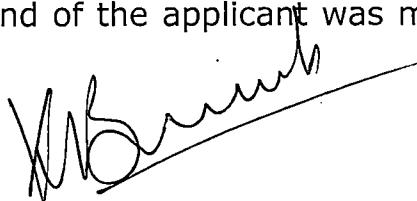
: Respondents

Mr. Vinay Jain, counsel for respondents.

ORDER (ORAL)

Per Dr. K.B. Suresh, Judicial Member

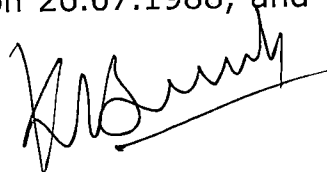
We have heard both the counsels in great detail and examined the pleadings. On 21.10.1976, the husband of the applicant apparently voluntarily retired from service. Thereafter on 20.06.1980, he was again appointed as a Fitter and it is said that an application to condone the period of break in service from 20.10.1976 to 19.06.1980 is pending. But from 26.07.1988 to 30.06.1991, the husband of the applicant was missing and on his



normal superannuation date, i.e. 30.06.1991, he was deemed to have been retired, and applicant's family received all other retiral benefits except pension. Apparently, an FIR was lodged and the police could not trace him. Therefore, under law a presumption would lie that after a period of seven years, it would be deemed that the person is no more surviving, and would not come back. Therefore, according to Annexure-R/7, produced by the respondents vide Chapter VIII, Section-1, Sub-Section (3) of the Manual of Railway Pension Rules, 1950, stating that in the case of a Railway servant who dies while in service, after having put in not less than 7 years' continuous service, the family pension to his family will be given at the rate of 50 per cent of pay. This in our view is the relief, which the applicant can claim for, and nothing more.

2. Therefore, the O.A. is allowed and the respondents are directed to grant such benefit as stated in the Chapter VIII Section-I of the Manual of Railway Pension Rules, 1950, to the applicant. The arrears thereof shall be calculated till date from the date of the disappearance on 26.07.1988, and released to the applicant within three months next without any interest. But after three months, the amount shall carry interest at the rate of 10 per cent per annum.

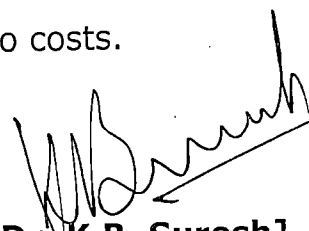
3. The learned counsel for the respondents would submit that since the retirement date of the applicant's husband is considered from 30.06.1991, the period of pension payment should run from that period. But since we considered the service of the applicant as having come to an end on 26.07.1988, and we have assumed



that his death took place notionally on that date, going by statutory formulation, therefore, the applicant legally died on 26.07.1988, which is the date the death ~~as~~ assumed, and the payment of pension becomes applicable, as otherwise, calculated from the date of superannuation, full pension would have been thus payable. O.A. allowed declaring that applicant's husband had notionally died on 26.07.1988, thus the applicant become eligible to 50% of the normal eligible pension. The amounts to be released within three months next. No order as to costs.

he.he.

[Sudhir Kumar]
Administrative Member



[Dr. K.B. Suresh]
Judicial Member