

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.655 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. G.S. Maingi, Administrative Member

ASHIMARANI MUKHERJEE

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B. Chatterjee, counsel
Ms. B. Mondal, counsel

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

Heard on : 12.6.2000

Order on : 12.6.2000

O R D E R

D. Purkayastha, J.M.

In this O.A. the applicant, Ashimarani Mukherjee who is the widow of one Sri Amiya Kumar Mukherjee, Ex-Driver, Bhanbad under the Eastern Railway has prayed for pensionary benefits. The admitted facts of the case are that the applicant's husband was removed from service on the allegation of unauthorised absence from duty with effect from 22.12.83. It is stated that a charge memo was issued to the said railway employee and on the conclusion of a disciplinary proceeding he was removed from service for his unauthorised absence.

2. Ld. counsel, Mr. B. Chatterjee appearing on behalf of the applicant has submitted that the husband of the applicant was alleged to have been removed from service in the year 1983 and therefore, he was guided by the old Pension Rule and in terms of Para 601 of the said Rule, the applicant is entitled to family pension and other retiral benefits on the death of her husband since ^{no} misconduct was attributed on her late husband

and ~~he~~ was removed from service only for unauthorised absence and not for any other specific misconduct. He has drawn our attention to a decision of this Bench of the Tribunal in O.A.821 of 1996 dated 24.04.2000 (Jayanti Kumar Mukherjee Vs. Union of India & Ors.) in which exactly same question arose and the said O.A. was decided in favour of the applicant and the respondents were directed to grant pension to the applicant therein. Mr. Chatterjee submits that the instant case be also decided following the aforesaid judgment of this Tribunal and the respondent authorities be directed to grant family pension and other settlement dues to the present applicant who is the widow of the late railway employee.

3. Respondents have stated in their ^{written} reply that the present application is barred by the law of limitation as the applicant has moved this application after a lapse of 14 years from the date of removal of her late husband. It is also stated that the husband of the applicant was removed from service with effect from 22.12.83 and therefore, question of grant of family pension to the applicant herein does not arise. It is also stated that the husband of the applicant was removed from service by way of penalty on the basis of a disciplinary proceeding as per rules. It is further stated that the husband of the applicant remained absent unauthorisedly from duty from 15.9.78 onwards and accordingly he was removed from service on the conclusion of a proper D&A enquiry. Since the husband of the applicant was removed from service, no pensionary benefit is admissible to the applicant.

4. We have considered the submissions made by the ld. counsel for both sides. We find from the judgment of this Bench referred to above, that, similar points were also taken therein by the respondents, but on consideration of the contentions raised ~~on~~ the points of law, it was decided that the applicant therein was entitled to pension as by the removal order no stigma was attributed to him and as per old Pension Rule he was eligible for pension. Since the present case is identical with the aforesaid decided case and the same not having been reversed by any superior court, we have to follow the said judgment passed by this Tribunal. Accordingly, the present O.A. is allowed. Respondents are directed to grant family pension and other retiral benefits to the applicant as per rules. However, arrears of such pension will be admissible only from 3 years prior to the ^{date of} filing of this application on 11.6.97. The applicant is directed to send a copy of this order alongwith a copy of the judgment dated 24.4.2000 in O.A.821 of 1996 as referred to above, to the respondents. The O.A. is disposed of accordingly awarding no cost.

[Signature]
(26.2.2000)
MEMBER(A)

[Signature]
12/6/2000
MEMBER(J)