

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No. OA 962 Of 1997

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

SMT. RADHA RANI DAS

Vs.

1. Union of India, Service through the General Manager, S.E. Rly., Garden Beach, Calcutta - 700 043.
2. Sr. Project Manager, S.E. Rly., Kharagpur.
3. The Divisional Personnel Officer, S.E. Rly., Kharagpur.
4. The Permanent Way Inspector, Rail Link to Haldia Port, S.E. Rly.

For the applicant : Mr. A. Chakraborty

For the respondents : Mr. S. Chowdhury

Heard On: 20.12.2004.

Date of Order: 23.12.2004

O R D E R

Mr. Mukesh Kumar Gupta, JM:

By the present application, widow of late Abhiram Das, Ex-Gangman, seeks declaration that her husband was entitled to regularisation with effect from 1.4.73, as some juniors to him were regularised on the said date besides seeking direction to grant her family pension and pensionary benefits.

2. The admitted facts of the case are that the applicant's husband initially joined as casual Gangman on 17.7.68 under PWI Rail Link to Haldia Port and retrenched on 17.10.75 due to completion of work. Her husband had submitted representation to the respondents for payment of gratuity, which was disposed of by the Assistant Labour Commissioner (Central), Calcutta on 27.6.95 with a direction to release the gratuity amount. The grievance of the applicant is that her husband died on 26.6.95 and though she received the gratuity amount on 30.4.97 but the Railway Board vide letter dated 24.12.73

decided that 40 per cent of the temporary non-gazetted post in each grade in the construction reserve be created with effect from 1.4.73, which would include those of open line in respect of work consisting more than four lakhs. Based on the said Railway Board letter, 253 posts of Khalasi were created with effect from 1.4.73 vide letter dated 26.8.86 and various juniors to her husband, namely, S/ Shri Abdul Majid, Sanatan & Rampada Dey, initially appointed in the year 1968 - 71, were regularised ignoring the claim of the applicant's husband.

3. The respondents in their reply contested the applicant's claim and stated that she had approached the Court after a lapse of 18 years. On merits it was stated that the office memorandum dated 17.8.89 while spelling out modalities regarding filling up the post, fixation of seniority, etc. were required to be carried out and her husband having retrenched on 17.10.75, which was never challenged had no cause of action to file the present application in the year 1997 seeking regularisation as well as family pension. It is further contended that the casual labourers have no right to claim family pension, under the rules in vogue.

4. We heard learned counsel for the parties and perused the pleadings. The respondents placed reliance on Rule 2006 of IREM Vol.II, 1990 Edition which lays down the procedure for absorption of casual labourers. It was contended that absorption is not automatic but subject to certain conditions. Since those conditions were not complied, the applicant's husband had no claim for regularisation. There is no explanation at all furnished by the applicant regarding delay in approaching this Tribunal. Such being the case, we do not find any justification in the applicant's claim for seeking regularisation of her husband with effect from 1.4.73, almost 30 years ago.

