

In The Central Administrative Tribunal
Calcutta Bench

OA 1003 of 1997

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

Fuljan Bewa, widow of Late Sahid, Ex-Gangman,
E.Rly., Bhagwangola, resident of Vill. Belea
Shyampur, Dist: Murshidabad.

.... Applicant

- Versus -

- 1) Union of India, through the General Manager,
Eastern Railway, Calcutta-1.
- 2) The Divisional Railway Manager, E.Rly., Sealdah.

..... Respondents

For the Applicant : Mr. B. Chatterjee, Counsel
Ms. B. Mondal, Counsel

For the Respondents: Ms. U. Banerjee, Counsel

Heard on : 23-03-2001

Date of Order : 23-03-2001

O R D E R

The question for decision in this case is whether the applicant, being widow wife of the deceased employee, is entitled to get family pension on the basis of the service rendered by her husband from 1979 to 1981 as labourer in the Railway Department. Applicant admittedly could not produce any document in support of her application. But respondents admitted in the reply that from the old records it is seen that the applicant's husband was engaged as decategorised Gangman on 16.11.79 against ELA (Extra Labour Application). Accordingly, he was not absorbed against permanent vacancy for which no insurance premium was realised. So, question of family pension does not at all arise.

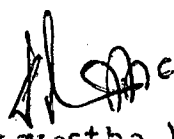
2. Ld. Counsel Mr. Chatterjee appears on behalf of the applicant and submits that if the applicant attained temporary status i.e. on completion of 120 days continuous service as labourer, she is entitled to get family pension in view of the judgement reported in ATJ 1996

Contd....

Vol. II 175 (Smt. B. Bav - Vs. Union of India & Ors) which has been decided on the basis of the decision of the Hon'ble Apex Court reported in 1996 (32) ATC 515 (Prabhavati Devi - Vs - Union of India & Ors.) where the Hon'ble Apex Court upheld the case of family pension after setting aside retirement order who have attained temporary status and granted family pension for the deceased employee."

3. Respondents also could not produce any record relating to the service of the deceased employee.

4. In view of the aforesaid circumstances, I direct the respondents to enquire into the matter and to decide whether the husband of the applicant rendered service continuously more than 121 days for the purpose of attaining temporary status. If on enquiry it is found that applicant's husband attained temporary status in accordance with the rules, then wife of the deceased employee would be entitled to get family pension; otherwise not. So, I direct the respondents to decide the issue in the light of the judgement reported in 1996 ATC Vol. II 175 (Smt. G. Devi - Versus - Union of India and Ors.) and to decide the question of granting family pension with reasoned and speaking order within two months from the date of communication of this order. If the decision goes in favour of the applicant holding that applicant's husband acquired temporary status, then family pension as admissible to the applicant should be granted to her from the date of death of applicant's husband. But no arrear should be paid to the applicant prior to the date of filing of the application before this Tribunal on 1-9-1997. With this observation, application is disposed of awarding no costs. Reasoned decision should be communicated to the applicant accordingly within 15 days from the date of taking decision and family pension should be paid to the applicant if decision is affirmative within two months from the date of taking decision.


(D. Purkayastha)
Member (J)