

In the Central Administrative Tribunal  
Calcutta Bench

OA No.1460 of 1997

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

Smt. Chhaya

-Vs-

Eastern Railway

For the Applicant : Mr. R.K. C. Thakur, Advocate

For the Respondents: Mr. M.K. Bandyopadhyay, Advocate

Heard on : 18-11-98

Date of Judgement : 18-11-98

ORDER

The question involved in this case is <sup>asto</sup> ~~that~~ whether the widow of the deceased employee late Balai, Ex-gangman under the respondents is entitled to get extraordinary family pension under the Pension Rules applicable to her husband due to pre-mature death of her husband who died on 6.8.84 while he was in service. According to the applicant, her husband was appointed on regular basis in the year 1984 and he died after rendering 4 years' service in the department in the year 1984. According to the applicant, after the death of her husband she was a mental patient till 1996 and after recovery from illness she applied for family pension. It is stated that her husband died leaving 5 minor children at the time of his death. But respondents did not make any settlement of the pension till date, though she was entitled to get family pension at the minimum rate as admissible under the rule irrespective of the fact ~~that~~ whether her husband rendered service more than 7 years or not.

2. Respondents denied the claim by filing written statement. It is stated by the respondents that husband of the applicant was appointed as Gangman in the railway service in the year 1980 and he worked there

till 30-6-84. Subsequently, on 6.8.84 the applicant's husband died and leave record was also maintained from January 24, 1980 to 30th June, 1984. It is found that at the time of death, applicant's husband's basic pay was Rs.214/- per month as per records available in the service book. It is stated by the applicant that after the death of her husband she made representation to the Divisional Railway Manager on 10.10.96 (Annexure A-3) for settlement of dues as well as appointment of her son on compassionate ground. It is also stated by the applicant that till July, 1986 she got nothing except good hope. Later she was attacked with mental sickness and <sup>is now</sup> fully absent minded for the claims. It is stated by the applicant that she came to know from the DRM Office that settlement of her claim would be done by the DRM-MLDT; but till now nothing was finalised. It is admitted by the respondents that in the meantime they received the representation dated 10.10.96 and not on 24.7.96.

3. Id. Advocate Mr. Thakur on behalf of the applicants submits that the expression <sup>of</sup> word 'decasualised labour' indicates that applicant was regularised. Thereby, she is entitled to get pension under the Pension Rules applicable to her at the time of death of her husband. It is also stated by the Id. Advocate Mr. Thakur that since the applicant was neglected for a considerable period, thereby the arrears of pay in respect of pension should be paid to her considering the financial difficulty of the applicant. Moreover, the deceased employee died leaving five minor children at the time of death. So as per Scheme of Pension, applicant is entitled to get extraordinary family pension as admissible to her irrespective of the fact ~~that~~ whether the employee in the railway service had completed 7 years of service or not since applicant was appointed on regular basis in the year of 1980 as per statement made by the respondents.

4. Id. Advocate Mr. Bandyopadhyay on behalf of the respondents submits that husband of the applicant is not entitled to get pension as he rendered only 4 years' service. But he <sup>is unable to say</sup> ~~admitted~~ that expression of word 'decasualised labour' as mentioned in the reply indicates that the

3. I have considered the submissions of Id. Advocates of both the parties and I find that applicant's husband was appointed as decasualised labour. It is also found that his basic pay was Rs.214/- at the time of his death. From the scheme of 'Extraordinary Family Pension Rule' it is found that extraordinary family pension is admissible to the widow/widower and children irrespective of the fact that whether he worked more than 7 years or not if he is regular employee. Applicant was found to be appointed as decasualised labour which indicates that he was regularised. Thereby, I hold that the applicant is entitled to get extraordinary family pension in view of the rules referred to above. Respondents also could not produce any documents before me to show any settlement of dues paid to her and it is found that respondents had stated in the written reply that the documents are lying with the Howrah Division. It is not understood by me why the respondents did not collect the requisite documents for the purpose of filing written reply to the O.A. They filed reply without any basic document. It is seen that she did not receive any settlement dues as admissible to her till date. In view of the aforesaid circumstances, I hold that the applicant is entitled to get family pension in the light of the discussion made above. Accordingly, respondents are directed to make all retirement benefits and extraordinary family pension as admissible to her within 3 months from the date of communication of this order and applicant will get arrears of family pension of three years before the date of filing this application which was filed on 29.12.97. So, she is entitled to get arrears of pension prior to three years from the date of filing this application and applicant would also be entitled to cost of Rs.500/- from the respondents and that should be paid along with pension. With this observation application is disposed of.

*Memo 10/11/98*  
( D. Purkayastha )  
Member(J)