

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTAL BENCH: CALCUTTA

OA NO.170/97

Calcutta this the 28th day of November, 2001.

Hon'ble Mr. Shanker Raju, Member (Jud1)

SMT. KHANDU BALA SAHU

-APPLICANT

(BY ADVOCATE SHRI A. CHAKRAVORTY)

-VERSUS-

UNION OF INDIA & OTHERS

-RESPONDENTS

(BY ADVOCATE SHRI S. CHOUDHARY)

ORDER (ORAL)

Heard the learned counsel for the parties. In view of the decision of the larger Bench in Chander Kala, Pradhan v. S.E. Railway decided on 23.11.2001 the right to sue survives even after the death of the Government servant. This court has jurisdiction to entertain the grievance of the applicant for regularisation on reckoning the period of his service under the construction division for the purpose of according family pension to the legal heirs, i.e. widow of the deceased. Briefly stated the applicant who was in the construction division from 1966-78 has been regularised as substitute with the respondents and having died on 24.3.88 he could complete only a qualifying service of 9 years, four months which falls beyond the stipulated 10 years to entitle a Government servant in the Railway to be accorded the benefit of family pension etc. vis-a-vis legal heirs. The learned counsel for the applicant stated that the applicant filed OA-537/91 and by an order dated 8.10.96 directions have been issued to make a representation to be considered by the respondents. Accordingly the respondents passed a speaking order on 21.1.97 without going into the contentions of the applicant. Placing reliance on the decision of this Court in B. Krishna Rao v. U.O.I. OA-882/95 dated 27.2.97 wherein on the basis that the junior has been accorded the benefit in OA-916/94 and his period rendered in construction division has been reckoned for the purpose of benefit of family

screening committee to ascertain whether the applicant is similarly situated as the applicant in OA-916/94 and is liable to be extended the benefit of the judgment. In this backdrop it is stated that the applicant being similarly situated is entitled for accord of the benefit of the judgement and the period of deceased Railway servant rendered in construction division is to be reckoned for the purpose of grant of family pension to be accorded to the widow, the legal heir of the applicant.

2. I have carefully considered the rival contentions of the parties and perused the material on record. I find that in a similarly circumstance situation the juniors of the applicants have been accorded benefit of reckoning the period for the purpose of regularisation in the construction division in OA-916/94. The Tribunal in its order dated 27.2.97 (supra) has remanded back the case to the respondents to constitute a screening committee to ascertain whether the applicant is similarly situated or not. In this view of the matter there cannot be a discrimination which is bad in law under Articles 14 and 16 of the Constitution and as the juniors and similarly circumstance persons to the deceased Railway servant have been accorded the same benefits the applicant cannot be denied the same.

3. The present OA, for the reasons recorded, is disposed of by setting aside the impugned order of the respondents dated 21.1.97 and they are directed to constitute a screening committee to ascertain whether the applicant is similarly circumstance as the applicant in OA-916/94 and in the event the same is found correct the applicant is to be accorded the family pension alongwith arrears of interest at the rate of 10% interest. The respondents shall also pass a speaking order within a period of three months from the date of communication of this order. No costs.

*S. Raju*  
(Shanker Raju)  
Member (J)