

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A. No. 10/97.

Tuesday this the 22nd day of April, 1997.

CORAM:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

P. Radha,
W/o Late N. Achuthan,
residing at:
Kithethu House,
Manithazham P.O.,
Kanjiramattom.

.. Applicant

(By Advocate Shri TC Govinda Swamy)

Vs.

1. Union of India through the
General Manager,
Southern Railway, Park Town P.O.,
Madras-3.

2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.

.. Respondents

(By Advocate Shri P.A. Mohammed.)

The application having been heard on 22nd April, 1997,
the Tribunal on the same delivered the following:

O R D E R

Applicant is the widow of late Shri N. Achuthan
who died while on duty on 8.8.1983. He was working as a
temporary status attained Gangman at the time of his demise.
It is alleged in the application that Shri Achuthan had been
working as a substitute. The daughter of Achuthan was
given appointment as a temporary Clerk on compassionate
grounds. But the respondents refused to grant family
pension to the applicant. Hence, this application has been

filed for a declaration that the applicant is entitled for family pension as provided under paragraph 801 of Manual of Railway Pension Rules 1950 and for a direction to respondents to grant the same to the applicant.

2. The respondents in their reply statement contend that the applicant's husband late Achuthan being only a temporary status attained casual labourer at the time of his demise, the rules do not provide for grant of family pension to the applicant. In support of this contention the respondents have relied on the ruling of Hon'ble Supreme Court in Sukanthi and another Vs. Union of India and others arising out of SLP (Civil) Nos. 3341/93 and 10951/95 a copy of which has been annexed to the reply statement as R-1.

3. I have gone through the relevant materials on record and heard the learned counsel for applicant Shri TC Govinda Swamy and Mr. PA Mohammed for respondents at length. Shri Swamy relied on the ruling of the Hon'ble Supreme Court in Prabhavati Devi Vs. Union of India and others (1996 SCC (L&S) 369), wherein it was held that to deny family pension to the widow of a substitute Railway Servant on the ground that he had not been absorbed in regular service is unjustified and the Railway Administration was directed to grant family pension. In the ruling in Sukanthi and another Vs. Union of India and others the Hon'ble Supreme Court held that as the casual labourers, even after attaining

temporary status, if not regularly absorbed are not entitled to pensionary benefits, the widows of such casual labourers are not entitled to family pension. Though the learned counsel for the applicant argued that the husband of the applicant Shri Achuthan was a substitute Gangman, the pleadings in this application and the documents on record do not support this case. The case of the applicant as set out in sub para (a) of para 4 of the original application itself is that the applicant's husband Shri Achuthan was a temporary status attained Gangman at the time of his demise. Therefore, it is futile now to argue that Shri Achuthan was a substitute Gangman at the time of his demise. Further, the Service Register of late Achuthan produced for the perusal by learned counsel for respondents, shows that Achuthan was described initially as CPC Khalasi and that his pay was later refixed as a CPC Gangman. Had Shri Achuthan been appointed as a substitute, he could have described as a 'substitute Khalasi' and not as CPC Khalasi or CPC Gangman. There is marked difference between the status of a Substitute Railway Servant and a Casual Labour. If a substitute is absorbed in regular service he is entitled to have the entire length of substitute service counted as qualifying service for pension, while in the case of a temporary status attained Casual Labour on his

regular absorption he is entitled to count half the period of casual service rendered after attaining temporary status alone as qualifying service for pension. Therefore, as the applicant's husband was only a Casual Labour and not a substitute the decision in Prabhavati Devi's case does not apply to the facts of this case. The decision in Sukanthi & another Vs. Union of India and others was rendered on similar facts situation as in this case and the dictum of the decision therefore, applies to this case.

4. In the result, following the decisions in Sukanthi and another Vs. Union of India and others I find that the applicant is not entitled to any family pension. The application is therefore, dismissed. No costs.

Dated, the 22nd April, 1997.



A.V. HARIDASAN
VICE CHAIRMAN

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