

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 141 of 2011

Wednesday, this the 11th day of April, 2012

CORAM:

HON'BLE Mr. JUSTICE P.R. RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

E.Pitchammal
(Ex-Trackman/Locur, Section Engineer/
Permanent Way / Office/Bommidi)
Southern Railway,
Residing at No.5/220, Near Mariammankoil
Jahir Chinna Ammapalayam
Kalyanasundara Colony
Salem – 5

(By Advocate Mr. T C Govindaswamy)

versus

1. Union of India represented by the General Manager, Southern Railway Headquarters Office, Park Town P.O Chennai – 3
 2. The Divisional Railway Manager Southern Railway Palghat Division, Palghat : 678 001
 3. The Senior Divisional Personnel Officer Southern Railway Palghat Division, Palghat : 678 001
 4. The Senior Divisional Engineer (East) Southern Railway Palghat Division, Palghat : 678 001
 5. The Assistant Divisional Engineer (North) Salem Division, Salem – 12

... Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

This application having been heard on 28.03.2012, the Tribunal on 11-04-12 delivered the following:

ORDER

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

The applicant in this O.A is the widow of late P. Subramanian who while working as a Trackman, Locur Railway Station of the then Palghat Division of Southern Railway, was removed from service by order dated 05.11.2005. The applicant's late husband submitted an appeal dated 01.12.2005. Before a decision was taken, the applicant's husband passed away on 05.07.2007. The applicant had requested for grant of compassionate allowance which elicited no response. This O.A is filed for grant of all consequential benefits as if the applicant's late husband had continued in service till his date of demise or in the alternative for a declaration that he is entitled to the benefit of compassionate allowance with effect from 06.11.2005 to 05.07.2007 and declare further that the applicant is entitled to the benefit of family pension with effect from 06.07.2007.

2. The applicant submitted that the allegation against her late husband was that he had unauthorisedly absented from duty during the period from 01.01.2000 to 31.12.2001. He had indicated that his absence was unavoidable. There is no misconduct on his part warranting a severe penalty of removal from service. The penalty is highly disproportionate to the gravity of alleged offence. The appellate order enclosed alongwith Annexure A-7 is totally without application of mind and not based on relevant considerations. In terms of Annexure A-5 read with para 309 and 310 of the Manual of Railway Pension Rules, 1950 as also Rule 65 of

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the Railway Servants (Pension) Rules, 1993, the applicant's late husband is entitled to be granted compassionate allowance and consequently the applicant is entitled to have family pension.

3. The respondents in their reply statement submitted that late P. Subramanian though was on the rolls of the Railways and his service lasted for 24 years, 4 months and 3 days, his non qualifying service due to unauthorised absence from duty is 16 years, 09 months and 01 day. The ex-employee has only 07 years, 07 months and 02 days of qualifying service to his credit including 50% his casual labour service. He was awarded severe penalty for unauthorised absence on earlier occasions also. The minimum qualifying service of 10 years is a pre-requisite for sanction of any class of pension including compassionate allowance. There is no provision to grant family pension to the applicant when her husband is not entitled for pension. He was imposed with a penalty for withholding of increment for one year in 1984 for unauthorised absence. In the year 1987, he was imposed with a penalty of reduction of pay with effect from 01.04.1987 again for unauthorised absence. He was imposed with a penalty of removal from service with effect from 17.03.1988 for not turning up for duty and remaining on unauthorised absence. On appeal dated 25.08.1989, he was reinstated in service in the year 1990. He joined duty on 10.04.1990 but he again remained on unauthorised absence from the very next day of his reinstatement for nearly 3 years. He again remained on unauthorised absence for more than 8 years. All these show that ex-employee was a habitual absentee. The ex-employee had attended the enquiry and accepted the charges framed

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against him.

4. In the rejoinder filed by the applicant, it was submitted that his service records were not validly maintained by the respondents; in so far as no certification has been made by the competent authority after making annual verification treating any part of the applicant's service as non qualifying for pensionary benefits and in not showing the entries to the applicant's husband.

5. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicant and Mr. Thomas Mathew Nellimootttil, learned counsel for the respondents and perused the records.

6. We have carefully considered the contentions of both the learned counsel. That the applicant's husband was a habitual absentee, is borne out from the facts of the case. Out of the total period of 24 years or so on the rolls of the Railways, he was unauthorisedly absent for about 17 years. He had only around 7 years and 7 months of qualifying service to his credit including 50% of his casual labour service. He never took his job seriously. For unauthorised absence in various spells, he was awarded with punishments a number of times. The respondents were lenient in reinstating him in the year 1990. After joining on 10.04.1990, he remained on unauthorised absence from the very next day onwards for a period of nearly 3 years. Chances given for his reformation were wasted. He had behaved in a manner unbecoming of a Railway servant. As he was not having the qualifying period of 10 years service for

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pension, he is not entitled for pension or compassionate allowance. Therefore, there is no justification for the claim of the applicant for sanction of compassionate allowance or family pension. The contention of the applicant that the entries in the service book of the ex-employee were not maintained validly by the respondents is only technical. The respondents are not expected to waste their time and energy and resource to run after a fugitive employee who has not shown any sense of responsibility inspite of having been given enough opportunities to improve his conduct and behaviour.

7. Devoid of merit, the O.A is dismissed with no order as to costs.

(Dated, the 11th April, 2012)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R. RAMAN
JUDICIAL MEMBER

cvr.