

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 181/2006

This the 22nd day of May 2008

Hon'ble Shri Justice Khem Karan, Vice Chairman

Smt. Deo Pati, aged about 32 years Widow of late Sri Hem Chandra, Resident of Village Bainama Ka Purwa, P.O. Rauza Gaon, District- Barabanki.

Applicant

By Advocate: Sri B.N. Shukla

Versus

1. Union of India through General Manager, Northern Railway, Head Quarters Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow Division, Hazratganj, Lucknow.
3. Senior Divisional Personnel Officer, Northern Railway, Lucknow Division, Hazratganj, Lucknow.
4. Senior Divisional Finance Manager, Divisional Manager Office, Northern Railway, Lucknow Division, Hazratganj, Lucknow.

Respondents

By Advocate: Sri Praveen Kumar for Sri Anil Srivastava

ORDER

BY HON'BLE SHRI JUSTICE KEHM KARAN, VICE CHAIRMAN


The controversy involved in the present O.A. is as to whether late Sri Hem Chandra, husband of the applicant was a bonafide Railway Servant. There is no dispute between the parties that late Sri Hem Chandra died on 2.5.2005 and the applicant is the widow of Sri Hem Chandra. There is further no dispute that Hem Chandra son of late Ram Lakhan secured appointment as Safaiwala in Carriage and Wagon Section of the Northern Railway, on the basis of appointment letter dated 10.2.1995 (C-1) and in due course was



promoted to the post of Helper Khalasi in the grade of Rs. 2650-4000 (RPR) and continued working in that capacity till his death on 2.5.2005. During the period of a decade of his service, he was also subjected to formal disciplinary proceedings. After his death on 2.5.2005, applicant staked her claim for release of Provident Fund, Gratuity, Group Insurance, Leave Encashment, Terminal benefits and Family Pension etc. She was paid an amount of Rs. 1145/- in January, 2006 but the rest of the claims were not cleared so she filed this O.A. praying for directing the opposite parties to settle the terminal benefits e.g. Provident Fund, Death-cum-Retiral Gratuity, Group Insurance, Leave Encashment and Family Pension together with interest on arrears.

2. Earlier, vide order dated 21.4.2006, this Tribunal disposed of the O.A. directing the respondent No.2 to clear the dues as may be admissible to the applicant, on death of her husband late Sri Hem Chandra. These orders were passed in absence of any written reply from the side of the respondents. The respondents moved one application for recalling this order saying that it came to light that late Hem Chandra succeeded in entering in service on the basis of a forged and fabricated appointment letter. They also stated that since the O.A. was disposed of at admission stage, so they could not bring these facts on record. The request of the respondents was accepted vide order dated 6.11.2007, and order dated 21.4.2006 recalled and the O.A. was restored to its original number.

3. In their written reply to the O.A., respondents have categorically pleaded that late Sri Hem Chandra practiced fraud on the authorities by securing employment on compassionate grounds. They say, in fact, Ram Lakhan was alive and he died subsequently on 10.6.1999. They say that the fraud could not be detected during the period Sri Hem Chandra was in employment and it came to light only when the respondents examined the record, with a view to comply with the directions dated 21.4.2006 of this Tribunal. They do not dispute that late Sri Hem Chandra worked from 1995



till his death and during this period, was promoted and also subjected to formal disciplinary proceedings. They say that since induction of late Sri Hem Chandra was vitiated by fraud, so the applicant is not entitled to any terminal benefits as claimed in the O.A.

4. Applicant has filed Rejoinder. She says in absence of detailed enquiry, there is no good ground with the respondents, to say that appointment letter dated 10.2.1995 was forged and fabricated. She does not dispute that Ram Lakhan was father of late Sri Hem Chandra and he died in June, 1999.

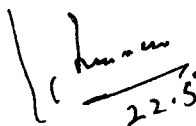
5. I heard Sri B.N. Shukla, for the applicant and Sri Praveen Kumar B/h for Sri Anil Srivastava for the respondents quite at length and I have carefully gone through the entire material on record.

6. There appears to be much force in the contention of Sri B.N. Shukla that without a detailed enquiry, appointment letter dated 10.2.95 cannot be said to be false and fabricated. He argues, had the said letter been forged and fabricated, the same would have been detected at least at the time late Sri Hem Chandra was promoted to the post of Helper Khalasi and also at the time, when his antecedents were verified in 1995. The learned counsel says that Sri Hem Chandra was in a better position to have defended his appointment and the applicant being a poor house wife, is not expected to tell as to how and in what manner her husband got inducted in service, in 1995. Sri Shukla says, the respondents are not correct in saying that late Sri Hem Chandra got that appointment in 1995, under dying in harness rules. He says, it is true that Ram Lakhan, father of Hem Chandra was alive in 1995 and was alive even upto 10.6.99 but there is no good material with the respondents to say that late Sri Hem Chandra secured employment on the ground that father died in harness. Sri Praveen Kumar B/h for Sri Anil Srivastava has contended that a bare perusal of letter dated 10.2.95 (C-1) will reveal that Hem Chandra got appointment under dying in harness rules.

7. I am of the view that a detailed enquiry is necessary into the allegations as to whether late Sri Hem Chandra got appointment letter

dated 10.2.95 on the ground that his father died in harness. If the enquiry reveals that late Sri Hem Chandra secured employment under dying in harness Rules/guidelines, then the applicant may not be entitled to those benefits which she is claiming in this O.A., except the amount of Provident Fund of late Sri Hem Chandra. It seems just and proper to ask the respondent No. 2 namely, Divisional Railway Manager, Northern Railway, Lucknow to get the matter enquired into by any officer of the rank of Junior Administrative Grade and pass suitable orders as per rules on the basis of result of such enquiry. It is made clear that during the course of enquiry, applicant shall be given full opportunity to place her case and produce the material which she wants to produce in support of her claim.

8. So, O.A. is finally disposed of with a direction to the respondent No. 2 to get the matter enquired into by some officer in the rank of Junior Administrative Grade and pass suitable orders in regard to the claims mentioned above within a period of 3 months, from the date, a certified copy of this order is produced before him. The enquiry shall be made in the light of observations made above, giving full opportunity to the applicant to have ^{her} ~~his~~ say in the matter. In case the Provident Fund amount has not been released so far, the same shall be released in favour of the applicant, within a period of one month from the date, a certified copy of this order is produced before him. No order as to costs.


22.5.08
Vice Chairman

HLS/-