

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

**Original Application No.509/2007
This the 5th day of September 2008**

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Smt. Pushpa Devi aged about 46 years wife of Late Surendra Pratap Singh R/o 80 M, Mavaiya Loco Colony, N.E. Railway, Lucknow.

...Applicant.

By Advocate: Shri M.A. Siddiqui.

Versus.

1. Union of India, through the General Manager, North Eastern Railway, Gorakhpur U.P.
2. The Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow U.P.
3. The Senior D.P.O., N.E. Railway, D.R.M. Office, Ashok Marg, Lucknow U.P.

...Respondents.

By Advocate: Shri C.B. Verma.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed OA with the prayer to quash the order Dt. 3.10.2007 (Ann.-6) and issue directions to the respondents for grant of family pension to the applicant.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that the applicant is not entitled for family pension as her husband worked as substitute and his service was never regularized and he was remain substitute till his death.

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and also reiterated his pleas in the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the husband of the applicant Late Surendra Peratap Singh was initially engaged as Casual Labour under the Respondent No.2 during 29.01.1987 as substitute and died on 24.09.1995. Thereafter, the respondent authorities have settled the dues payable to the deceased husband of the applicant and also paid the same to the applicant and compassionate appointment was also made to her. The applicant made claim for grant of family pension by way of representation but when there was no response, she filed O.A.No.385/2006 on the file of this Tribunal and it was disposed of on Dt.01.09.2006 with a direction to the respondents to dispose of the pending representation of the applicant for grant of family pension within a period of three months and in pursuance of such direction, the respondents have considered the claim of the applicant and rejected the same by way of impugned order (Ann.-6) Dt. 03.10.2007, which is under challenge.

7. Admittedly, the services of the Late Surendra Pratap Singh was not regularized and he was remained substitute through, worked more than eight years. It is the specific case of the respondents that without regularization of the services of the deceased employee, the applicant is not entitled for pensionary benefits and in support of it, they have relied on Rule 32 of the Railway Service (Pension) Rules, 1993 and also on the following decisions stating that work charge employee is not entitled for family pension and they are supporting the stand taken by the respondents.

(i). **2007 (14) Scale-296 General Manager, North East Railway & Ors. Vs. Chanda Devi.**

(ii). **2008 (1) LBESR 606 (SC) Uttar Haryana Bijli Vltran Nigam Ltd. & Ors. Vs. Surji Devi.**

8. In view of the above circumstances, without regularization of the services of the late Surendra Pratap Singh, his wife, who is the applicant herein, is not entitled for any family pension and as such, there are no merits in the claim of the applicant in challenging the order passed by the respondents covered under (Ann.-6) Dt. 3.10.2007.

In the result, O.A. is dismissed. No costs.


(M. KANTHAIAH)

MEMBER (J)

05-09-08