

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

ORIGINAL APPLICATION No. 35/11

This, the 28<sup>th</sup> day of November, 2011

**Hon'ble Justice Sri Alok Kumar Singh, Member (J)**

1. Sunder pata @ Inderpati aged about 75 years wife of Mangal Prasad resident of village Lalaipur Hemlet Ashok pur Post,DhobhaRai district, Gonda.
2. Baba deen aged about 35 years son of Mangal Prasad resident of Village Lalaipur Hemlet Ashok pur Post, Dhobha Rai, District, Gonda.

**Applicants**

**By Advocate Sri J. K. Verma.**

**Versus**

1. Union of India through General Manager (Personal ) North Eastern Railway, Gorakhpur.
2. Divisional Raiway Manager, North Eastern Railway, Izat Nagar Division, Izat Natar.
3. Sr. Divisional Personal Officer, North Eastern Railway, Izat Nagar Division, Izat Natar.
4. Section Engineer Work/Station Master North Eastern Raiway, Gorakhpur Division, Gorakhpur.
5. General manager ( Personal ) North Eastern Railway, Gorakhpur Division, Gorakhpur.

**Respondents**

**By Advocate Sri Narendra Nath.**

**Order (Dictated in Open Court)**

**By Hon'ble Justice Sri Alok Kumar Singh, Member (J)**

This original application has been filed by wife of Mangal Prasad and son for the following relief(s):

- (i) *That Hon'ble Tribunal may be pleased to direct the respondents to pay the family pension and others benefits, along with its arrears, admissible to the applicant No. 1 from 7.8.2006 in the light of circular dated 27.3.1991 issued by the Railway Board, as contained in Annexure-1 to this O.A.*
- (ii) *That Hon'ble Tribunal may be pleased to direct the respondents to consider the application for compassionate appointment of the applicant No. 2 within stipulated period as per circular bearing NDRB letter No. E (NG)II/97/RC-1/210 dated 26.7.1998 issued by the Deputy Director Asst.(N) II Railway Board, as contained in Annexure No. 2 to this O.A.*
- (iii) *To issue any other order or direction as this Hon'ble Tribunal deems fit and proper in the circumstances of the case.*
- (iv) *To award the cost of original application to the applicants.*

2. Subsequently, the prayer for compassionate appointment was directed to be dispensed with in the light of order dated 2.7.2010.

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3. Thus, this Tribunal is now left with only the main relief of family pension and retiral benefits and arrears, if any.

4. The applicant's case is that their husband/father was appointed as Helper Grade-I w.e.f. 1.1.1984 with the respondents and he continued to perform his duties as such. Unfortunately, with effect from 22.7.2006, he went missing. Therefore, an application/report dated 7.8.2006 was lodged at GRP Fatehgarh (Annexure-3) in which now, a final report dated 29.8.2010 has been submitted (Annexure RA-1).

4. The respondents have filed a detailed counter affidavit. But they have not disputed the factum of service rendered by Mangal Prasad till above date. Similarly, it has also not been disputed that he stopped working w.e.f. 22.7.2006 and a report was lodged at GRP Fathhgarh regarding his disappearance by the family members. The only thing which has been contended particularly in paragraph Nos. 11, 12, and 13 of the counter affidavit is that no final report has been received as yet to the notice of the respondents. But as said above, now it has been received. Even the circular dated 27.3.1991 relied upon by the applicant in respect of dealing such cases of family pension where an employee gets missing has not been disputed.

5. I have heard the arguments at length and perused the material on record.

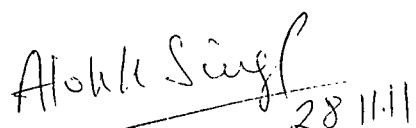
6. Indisputably, the applicant joined service with the respondents as Helper Grade-I w.e.f. 1.1.1984 and he went missing w.e.f. 27.7.2006 regarding which, a report was also lodged on 7.8.2006(Annexure-3) with GRP Fatehgarh. As said above, the only objection from the side of the respondents was that they were feeling handicapped to redress the grievances of the family of the employee because, no final report had been received by them. But now, the applicants have filed a copy of final report (Annexure RA-1) dated 29.8.2010whch is addressed to the Section Engineer (Works) North Eastern Raiplay, Fathegarh. The learned counsel for the respondents fairly concedes that this copy has been submitted by the applicants on 16.9.11. He further submits that in fact, the department has already

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taken care of this case and after receiving the aforesaid final report, they have written a letter on 14.11.11 addressed to the wife of the employee calling for filing of certain forms of pension papers etc. He also submits that the respondents shall take expeditious steps in respect of granting family pension in accordance with the circular dated 27.3.1991 and other relevant rules, circulars/OMs etc. Learned counsel for the respondents also informs that in fact the employee Mangal Prasad has been treated as retired from the date he went missing i.e. 22.7.2006 and as such all retiral benefits such as encashment of leave etc. shall be granted which are admissible to him. It goes without saying that in case the employee appears then such entire payments which are made shall be deposited/recovered. The counsel for the respondents submits that for this purpose an affidavit/undertaking is also required in accordance with relevant rules.

7. In view of the above, this O.A. deserves to be partly allowed with necessary directions to the respondents to expedite the matter pertaining to retiral benefits including family pension etc.

8. Accordingly, this O.A. is partly allowed with the direction to the respondent No. 3 to pay the family pension and other retiral benefits which are admissible to the applicants in accordance with relevant rules/circulars/OMs etc expeditiously preferably within two months from today. No order as to costs.

  
**(Justice Alok Kumar Singh)**  
**(Member (J))**

Vidya