

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

C. A. No. 548 of 1996.

Date of order : 15.9.1999

(Dictated in Open Court)

Smt. Rajkumari Devi, wife of Late Yadav Prasad Sinha, aged about 55 years, resident of Village Jogiara Railway Station, Police Station- Jale, Town & District-Darbhanga.

..... Applicant

Vrs.

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Manager, North Eastern Railway, Gorakhpur.
3. Divisional Electrical Engineer, North Eastern Railway, Division, Sonpur.

..... Respondents.

Counsel for the applicant : Shri M.P.Dixit.

Counsel for the respondents : Shri A.K.Tripathi

C O R A M

Hon'ble Shri L. R. K. Prasad, Member (Admn.)

Hon'ble Shri Lakshman Jha, Member (Judicial)



ORDER

Heard the learned counsel for the parties and perused the materials on record.

2. This application has been filed seeking following reliefs :-

(i) Issuance of direction to the Respondents to pay post retiral benefits to the applicant, such as family pension, gratuity, leave encashment group insurance amount and D.L.I.

(ii) Issuance of a direction to the Respondents to pay to the applicant 18% interest on amount of post retiral dues to be paid to the applicant from the due date of payment till the actual date of payment.

3. The history of this case is, that the applicant's husband late Yadav Prasad Sinha was appointed as Clerk in N.E.Railway in 1958. He died on 29.9.1982 in harness as Senior Clerk. It is the claim of the applicant that, she has been making necessary representations for payment of admissible post retiral benefits as at Annexure-1, Annexure-1/1 and Annexure-1/2. She has not received any response from the Railway Respondents with regard to payment of admissible pensionary benefits. On the other hand, the Respondents have stated that this case is not maintainable on the ground of limitation. We

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are unable to agree with this view of the Respondents, because the limitation clause will not apply in case of pensionary benefits.

4. During the argument, the learned counsel for the Railway Respondents submitted that as the Service Book and the related document of the deceased employee are not traceable, the Respondents are unable to settle the pensionary benefits of the applicant.

5. The learned counsel for the applicant referred to the decision of the Patna High Court in Brahmdeo Prasad Singh vs. State of Bihar as reported in Patna Law Journal (All PLJR) 1996 page 87, that it is for the Respondents to construct the Service Book, on such materials as it may have in possession and pay to retired Government Servant his dues, which according to the Government is payable to him.

6. It is settled principle of law that the custodian of such records are the employers. In the instant case, such documents, which are required for settling the retiral benefits, should be available with the Railway Respondents. If they are not traceable, the Respondents should make efforts to re-construct the records (Service Book) of the deceased employee expeditiously, so that the admissible retiral dues may be paid to the applicant, without any delay.

7. In view of the above circumstances, this O.A. is disposed of with the direction on the Respondents

to settle and pay the pensionary dues of the applicant as may be admissible in accordance with law alongwith an interest of 15 per cent on the amount so due within a period of six months from the date of receipt of a copy of this order. The interest shall be payable from the due date of payment as per law. With the above direction, this O.A. is disposed of with no order as to costs.

MHS.


(Lakshman Jha)
Member (Judicial)


(L.R.K. Prasad)
Member (Admn.)