

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A

O.A. No. 330/96

Dated of Decision : 03.03.1998.

Smt. Lalti Devi & Ors. ... Applicants.

Vrs.

The Union of India & Ors. ... Respondents.

Counsel for the applicants. ... Shri Harishankar Roy.

Counsel for the respondents. ... None.

C O R A M

Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman.

Hon'ble Mr. L.R.K.Prasad, Member (Administrative).

ORDER DICTATED IN OPEN COURT

V.N.Mehrotra, Vice-Chairman :

This O.A. has been filed by the applicant with the prayer that the office order dated 21.02.1994 (Annexure-3) and the letter dated 27.04.1994 (Annexure-5) be quashed and further that the respondents be directed to immediately make the payment in respect of Provident Fund, DCRG, GIC and leave encashment relating to the deceased husband of the applicant no.1 and also to pay family pension to applicant no.1. The applicant has also prayed for compassionate appointment of applicant no.2 but, subsequently the name of the applicant no.2 was deleted and the applicant has filed a separate O.A. in respect of the same.

2. It is claimed by the applicant that Ram Chandra Singh was the husband of the applicant and was working in the North-Eastern Railways as Crane Khalasi. It is claimed that the employee died while in service on 26.04.1990 in an accident. It is asserted that the retiral dues

*W*

of the deceased employee have not been paid to the applicant.

3. Notices were issued to the respondents in this case. However, in ~~respect~~ <sup>Shravasti</sup> of the fact that the case was adjourned for a number of dates, the written statement has not been filed and so it has been heard ex-parte.

4. We have heard the learned counsel for the applicant and perused the materials on record. The claim of the applicant is that till the death of her husband, who was a railway employee, on 26.04.1990 he continued to work as the railway servant and so the applicant was entitled to get retiral benefits belonging to her husband and also was entitled to get family pension.

5. The documents filed on behalf of the applicant indicates that the applicant remained absent from service for a pretty long time starting from 11.10.1982. Annexure-6 shows that the absence of the employee from 11.10.1982 to 10.10.1987 was regularised by treating the period from 11.10.1982 to 01.02.1983 on leave on average pay; from 02.02.1983 to 30.08.1983 on leave on half-average pay and from 31.08.83 to 10.10.1987 as leave without pay. It is also mentioned in the letter that for the subsequent period the letter has been written to the Headquarter for regularising the same. It also mentions that no leave was due in the account of the employee. It also appears that the authority concerned passed an order on 27.04.1994 (Annexure-5) mentioning that as the employee was absent continuously for more than five years it should be deemed that he has submitted resignation w.e.f. 11.10.1989. Then there is another order dated 21.02.1994 (Annexure-3) mentioning that the resignation

W.L.

of the deceased employee is accepted w.e.f. 11.10.1987.

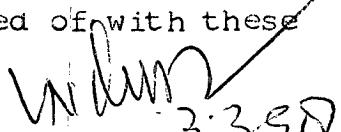
The applicant has asserted that he had submitted several representations to the authority concerned, including the representation dated 12.04.1994 (Annexure-4) but the same has not been considered and disposed of so far.

6. On a consideration of the entire matter, we are of the view that ~~in~~ considering the dispute as to whether the so-called absence of the employee for the entire period till his death was regularised or whether the employee ~~had~~ <sup>the same</sup> in fact submitted any resignation, should be considered and decided by the appropriate authority. As mentioned earlier, the applicant had actually filed representation against the order mentioning that the employee should be deemed to have resigned or the order (Annexure-3) allegedly accepting the resignation by the employee. This matter requires consideration by the appropriate authority. However, the authority concerned has failed to consider the same and has even failed to file proper written statement in this Court. It is very regretful that such an attitude has been adopted by the authorities concerned.

In view of the above discussion, we ~~in~~ hereby direct the respondent no.3, The General Manager (P), North Eastern Railway, Gorakhpur (U.P.), that in case the applicant files a representation before him within the period of one month from today the same ~~shall~~ be considered and decided by him by a reasoned and speaking order within the period of two months thereafter. In case it is held that any retiral benefits relating to the deceased employee, including the family pension, is payable to ~~the~~ applicant, the same shall be paid within two months of such decision.

The O.A. is accordingly disposed of with these directions.

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

  
(V. N. Mehrotra)  
Vice-Chairman