

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 491 of 2005

Date of order :- 01.09.2006

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

1. Smt. Tekni Devi, W/o Late Chutra , resident of village Kherabera, P.O. Gomoh, Dhanbad, presently residing at village – Dharnai, P.O. + P.S Makhdumpur, District-Jahanabad.

....Applicant

By Advocate : Shri M.P. Dixit.

Vs.

1. The Union of India through the General Manager, E.C. Railway.
2. Divisional Railway Mnager, E.C. Railway, Dhanbad.
3. Sr. D.P.O., E.C. Railway, Dhanbad.
4. Dy. C.E. (Con), E. Railway, Dhanbad.
5. Sr. D.F.M., E.C. Railway, Dhanbad.

....Respondents

By Advocate : Shri A.K.K. Sahay

O R D E R (Oral)

By Sadhna Srivastava, M (J):-

The applicant seeks direction to the respondents to grant her all terminal benefits like family pension, DCRG, Leave Salary, Commutation of Pension etc along with



arrears with interest @ 20 %.

2. With the consent of learned counsel for both the parties, the case was taken up for final disposal at the stage of admission itself. The pleadings being complete and controversy is short, I have accordingly heard the arguments and perused the records of this case.

3. The factual matrix of the case as brought out by the applicant in this OA are that the applicant is the widow of Late Chutra who was initially appointed as casual Gangman on 2.8.1962 and subsequently granted temporary status with effect from 1.1.1981. Her husband died on 14.11.1988, leaving behind widow, two sons and three minor daughters. The applicant claims that her husband had worked for more than 26 years of service i.e about 19 years as a casual Gangman and about 7 years in temporary status and therefore, the widow is entitled to get the family pension and other settlement dues.

4. The OA has been filed on several grounds. Shri M.P. Dixit, the learned counsel for the applicant, by placing

A handwritten signature consisting of stylized initials 'A' and 'B'.

7. The Gujarat High Court, in the case of Rukhi Ben Rupa Bhai vs. U.O.I. 2006 (2) ATJ page 1 , had occasion to discuss the status of temporary railway servant and casual labours with temporary status as well as substitute, for grant of family pension. The Hon'ble High Court held that the casual labours acquiring the status of temporary railway servant are entitled for regularisation, however, non-regularisation against the permanent post would not deprive them of retiral benefits and pension. Their widow , on their demise whether during the service or after superannuation, would be entitled to family pension. The Patna High Court, in the case of Meena Devi vs. U.O.I. & Ors reported in 2002 (4) PLJR page 671 , has held that the widow of the deceased casual employee with temporary status is entitled for family pension.

8. The facts of the present case are also similar to the case of Vallam Badia (Supra), as the applicant's husband was also a casual Gangman with temporary status and died after rendering about 26 years of service. I have



absolutely no hesitation in applying the ratio laid down in the above referred cases and deciding the same on similar lines.

9. As far as limitation is concerned, in the matter of pay and allowances, though there is no limitation, yet the Apex Court in S.K. Mastan Bee vs. General Manager, Southern Railway and Ors , 2003 (1) SC SLJ 136, while ~~not~~ ^{is} entertaining the grievance, taking compassionate view on equity base, allowed the claim of the petitioner therein. I follow the same rule that no law of limitation is attracted in the pension matter. Even if there is some limitation, it would not amount to laches, unless a right is defined , adjudicated and redressal is done. One has a right to come to the Tribunal for redressal. So far as the respondents' second preliminary objection regarding maintainability of OA is concerned, I hold that since the applicant resides in Bihar, therefore, as per Rule 6 of CAT (Procedure) Rules, 1987, this Tribunal has jurisdiction. Hence the preliminary objection over the territorial jurisdiction of this Tribunal, as raised by the respondents, ~~is~~ ^{is} rejected.



10. Accordingly, the OA is allowed. The respondents are directed to settle family pension as well as all other settlement dues of the applicant within three months from the date of receipt of a copy of this order. No orders as to costs.



[Sadhna Srivastava] M [J]

/cbs/