

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

**O.A. No. 726 of 2005**

**Date of order : 11.07.2006**

**C O R A M**

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

Smt. Sushila Devi, W/o Late Bilayati Singh, resident of village/post/p.s – Maranchi, District – Patna ( Bihar).

**....Applicant**

**By Advocate : Shri M.P. Dixit**

**Vs.**

1. The Union of India through the General Manager, E.C. Railway, Hazipur.
2. Divisional Railway Manager, E.C. Railway, Danapur.
3. Sr. Divisional Personnel Officer, E.C. Railway, Danapur.
4. Sr. D.F.M., E.C. Railway, Danapur.
5. A.D.M.O., E.C. Railway, Hospital, Danapur.
6. Assistant Engineer, E.C. Railway, Mokama.

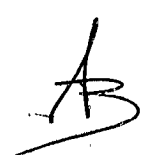
**....Respondents**

**By Advocate : Shri P.K. Tiwary**

**O R D E R (Oral)**

**By Sadhna Srivastava, M ( J ):-**

The applicant has filed this OA under Section 19



of the Administrative Tribunals Act, 1985 and sought for a direction to respondents to grant /release family pension with effect from January, 2004 with interest @ 15 % per annum.

2. The facts in brief are that the applicant is widow of Bilayati Singh who was initially engaged as Casual Labour much before 1.1.1981 in the railway. It is alleged that the services of her husband was regularised against Group 'D' post. Subsequent to regularisation, he was sent for medical examination on 7.5.1979 and declared medically fit in B I category. Thereafter, on 23.6.1990 while he was ☐Khalasi in the pay scale of Rs. 750-940/- under the control of Assistant Engineer, E.C. Railway, Mokama, died in harness. After his death the respondents have sanctioned and paid the family pension to the applicant with effect from 24.6.1990 vide PPO dated 9.11.1990 ( Annexure A/2). On 8.10.1996, the respondents had issued a notice as to why the family pension should not be withdrawn forthwith as her husband was not a regular employee of the railway. The applicant filed the reply of notice. Her pension was continued upto December, 2003,



but the same has been stopped from Jan, 2003<sup>4</sup>. Hence this  
OA.

3. On the other hand, the learned counsel for respondents strongly relying upon the decision of the Apex Court in *Rabia Bikaner vs. U.O.I.*, 1997 SCC ( L&S) 1524, contends that one who is not regularised till death remains as casual labour, and rules do not provide any family pension to a casual labour. Since the applicant's husband was not regularised, she is not entitled for family pension.

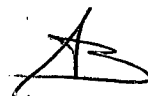
4. Shri M.P. Dixit, the learned counsel for the applicant has submitted that this Tribunal, in a number of cases, has settled the issue involved and it does not remain res integra any more. He has referred to the following cases.

( i ) 2006 ( 2 ) ATJ page 307, *Rajjeshwari Devi vs. Union of India vs. U.O.I.*



( ii ) 2003 ( 2 ) SLJ CAT page 271, *Smt. Ballam Badia vs. U.O.I.*

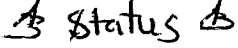
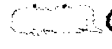
( iii ) 2006 ( 2 ) ATJ page 1 ( High Court), *Rukhi Ben Rupa Bhai vs. U.O.I.*

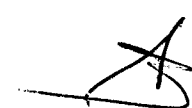
( iv ) 1996 ( 7 ) SCC 26, *Prabhawati Devi vs. U.O.I.*



( v ) 2002 ( 4 ) PLJR 671 , Meena Devi vs. U.O.I.

5. I have considered the rival submissions put forth on behalf of both the parties. As far as the factual aspects of the case is concerned, the undisputed facts are that the applicant's husband was engaged as casual labours before 1.1.1981 and died in the year 1990, while serving in the pay scale of Rs. 750-940/- under respondent No. 6. The only fact which has been denied by the respondents is regularisation of the deceased employee. According to the respondents,   the deceased employee was CPC/substitute Gang Man when he died on 23.6.1990.

6. The Hon'ble Apex Court in the case of Prabhawati Devi ( Supra ) , has held that the casual labour working in the railway, acquiring  status  of substitute and after continuing as such for over a year, dying – his widow and children became entitled to family pension. The facts of this case are at par with the case of Prabhawati Devi. In the instant case, the deceased employee was granted CPC and working against the regular post of Gang Man in the pay scale of Rs. 750-



940/-.

7. The Gujrat High Court , in the case of Rukhi Ben Rupa Bhai ( Supra) had occasion to discuss the status of such an employees, for grant of family pension. The Hon'ble High Court has held that non-regularisation against a permanent post would not deprive the substitute of retiral pension. The widow, on his demise, whether during service or after superannuation, would be entitled to family pension.

8. In the circumstances of the case, I am of the opinion that the instant case is covered by the decision of the Hon'ble Apex Court, in the case of Prabhawati Devi. One more important aspect of the matter is that in 1996 the respondents issued a letter to the applicant for withdrawal of family pension , and till December, 2003, they had not taken any action. The applicant was under the impression that the respondents were satisfied with her reply. Therefore, taking into account all the facts and circumstances of the case, I am of the opinion that the applicant is entitled for relief. The respondents are hereby directed to pay family pension with



effect from January, 2004, within a period of three months from the date of receipt of copy of this order. The prayer for grant of interest does not appear to be justified, as such the prayer for interest is rejected.

9. The OA is allowed to the extent as indicated above. There shall, however, be no order as to the costs.

  
[ Sadhna Srivastava ] M [ J ]

/cbs/