

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
CAMP: NAGPUR

Original Application No: 1081/96.

Date of Decision: 19.02.1998.

Smt. Kautakabain B. Choukikar, _____ Applicant.

Mrs. S. P. Chandurkar, _____ Advocate for
Applicant.

Versus

Union Of India & Others, _____ Respondent(s)

Shri P. S. Lambat, _____ Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. JUSTICE R. G. VAIDYANATHA, VICE-CHAIRMAN.

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- (1) To be referred to the Reporter or not? Yes
- (2) Whether it needs to be circulated to no other Benches of the Tribunal?

Replied to
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

CAMP : NAGPUR

ORIGINAL APPLICATION NO.: 1081/96.

Dated this Thursday, the 19th day of February, 1998.

CORAM : HON'BLE SHRI JUSTICE R. G. VAIDYANATHA,
VICE-CHAIRMAN.

Smt. Kautakabain Bhimrao Choukikar,
R/o. Baba Farid Nagar,
Gawande Layout,
P.O. Mankapur Koradi Road,
Nagpur - 440 030.

.. Applicant

(By Advocate Mrs. S. P. Chandurkar).

VERSUS

1. Union Of India through its
General Manager,
Central Railway,
Bombay.
2. Divisional Rly. Manager,
Central Railway,
Nagpur.
3. Sr. Divisional Accounts
Officer (Pension),
D.R.M. Building,
Central Railway,
Nagpur.
4. Sr. Accounts Officer
(Construction),
Central Railway,
O/o. D.E. (C)-II,
Ajni, Nagpur.

.. Respondents.

(By Advocate Shri P.S. Lambat)

: O R D E R :

PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN

In this O.A., the point for consideration is, whether a widow of a casual labourer is entitled to family pension or not? Respondents have filed reply opposing the O.A. I have heard the Learned Counsel for the applicant and respondents.

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2. The applicant's husband, Bhimrao Choukikar, who was working as a Casual Labourer in the Central Railway from 20.06.1972 to 26.07.1990, died on 26.07.1990. After his death, the respondents granted family pension to the applicant and she was drawing the same for four years and 8 months. Then, the family pension was stopped by intimating the Bank Of India. The applicant's case is that, since her husband had worked as a casual labourer for 18 years, he has acquired the right to get pension and, therefore, his family is entitled to family pension.

3. The respondents' case is that, the deceased was only a casual labourer and, therefore, he had no right to get family pension after his death. But, by mistake the family pension was granted to the applicant for some time and after the mistake was noticed, the family pension came to be stopped. It is, therefore, stated that the applicant is not entitled to family pension.

4. The short point for consideration is, whether the widow of a casual labourer in the railways is entitled to family pension or not ?

5. The Learned Counsel for the applicant placed reliance on the decision of Supreme Court reported in AIR 1996 SC 752 | Prabhavati Devi V/s. Union Of India & Others | That was a case where the deceased was a substitute, therefore, the question

before the Supreme Court was, whether the family of a substitute is entitled to family pension or not ? The Supreme Court pointed out that a substitute has all the rights and privileges as admissible to temporary railway servants on completion of 6 months continuous service. Therefore, since the deceased had acquired the status of a substitute and consequently, the status of a temporary railway servant, it was held that the widow of the deceased substitute is entitled to family pension. But, in the present case, the husband of the applicant was not working as a substitute, but only as a casual worker, hence, the said decision has no bearing on the point under consideration.

An identical question arose before the Apex Court in a recent judgement reported in 1997 SC SLJ 263 in the case of Union Of India & Others V/s. Rabia Bikaner, the Supreme Court held that under the family pension scheme for Railway Employees 1964, a Casual Labourer is not entitled to pension unless he has been absorbed against a regular temporary post and consequently, the family is also not entitled to family pension, unless the casual labourer has been absorbed in a regular post. Infact, the above earlier decision of the Supreme Court in Prabhavati's case, was cited in this latter decision and the Supreme Court observed that Prabhavati's case pertained to a substitute and cannot be applied to a case of family of a casual labourer.



I may also refer to another recent decision of the Apex Court reported in 1997 (5) Scale 494 [Union Of India & Others V/s. Sukanti & Anr.] wherein in an identical case, the Supreme Court observed that widows of Casual Workers, who had not been regularised in service, are not entitled to claim family pension.

Then, the matter is also covered by an earlier decision of the Apex Court reported in AIR 1988 SC 390 [Ram Kumar V/s. Union Of India & Others] wherein the Supreme Court observed that casual labourers acquiring temporary status are not entitled to pension.

Therefore, the question is no longer res-integra and is covered by ~~number of decisions~~ of the Apex Court where it has been consistently held that a casual labourer is not entitled to pension unless he is absorbed in a regular vacancy and therefore, the family of such worker is also not entitled to any family pension.

6. In the present case, the railway administration has found that some mistake has crept-in in granting family pension to the applicant and as soon as the mistake was noticed, the payment has been stopped. The action of the railway administration is in full consonance with the view taken by the Apex Court, and therefore, there is no illegality or infirmity in the stand of the administration that the applicant is not

entitled to family pension, hence, no interference is called for.

7. In the result, the application is dismissed. In the circumstances of the case, there will be no order as to costs.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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