

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 28 of 1999.

Dated this Thursday, the 29th day of June, 2000.

Smt. Devkibai Ramchandra Kelsikar Applicant.

Shri V. G. Pashte, Advocate for the
applicant.

VERSUS

Union of India & Another, Respondents.

Shri R. R. Shetty, Advocate for
the respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
(iii) Library.

No


(B.N. BAHADUR)
MEMBER (A)

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 28 of 1999.

Dated this Thursday, the 25th day of June, 2000.

Smt. Devkibai Ramchandra Kelisakar Applicant.

Shri V. G. Pashte,
Advocate for the applicant.

VERSUS

Union of India & Another, Respondents.

Shri R. R. Shetty,
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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 28 of 1999.

Dated this Thursday, the 29th day of June, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

Smt. Devkibai Ramchandra Kelshikar,
New B.D.D. Chawl No. 15,
Room No. 25, Naigaum,
Mumbai.

... Applicant

(By Advocate Shri V.G. Pashte)

VERSUS

1. Union of India through
The General Manager,
Central Railway,
Mumbai C.S.T.

2. The Chief Workshop Manager,
Loco Parel Workshop,
Central Railway,
Parel, Mumbai.

... Respondents.

(By Advocate Shri R. R. Shetty)

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Smt. Devkibai Ramchandra Kelshikar, widow of Shri Ramchandra Kelshikar, who died on 16.10.1985. The applicant comes before this Tribunal seeking the relief, in substance, for a declaration that in view of her husband's resignation being made after thirty years of qualified service, this should be treated as voluntary retirement and that it be declared that the applicant is entitled to the grant of ex-gratia payment w.e.f. 01.01.1986, with the payment of arrears.

2. I have heard the Learned Counsel on both sides on the merits of the case. However, I would first proceed to mention

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that the Learned Counsel for the applicant, Shri V.G. Pashte, placed before me a judgement of a Division Bench of this Tribunal in O.A. No. 1305/95 dated 08.03.2000 (I am also a party to this judgement). A copy of this judgement has also been provided to the Learned Counsel for the respondents, Shri R. R. Shetty, who states that he cannot deny that the ratio of this Division Bench judgement is applicable to the present case.

3. To place the salient facts of this case in a nutshell, it is stated that the applicant's husband, Shri Ramchandra Kelshikar, was working as a Fitter in the Central Railway Workshop at Parel w.e.f. 24.04.1941 uptill 15.12.1972, on which (latter) date he resigned from service. He expired on 16.10.1985. (It is seen that there is a minor discrepancy in case of the first two dates, as mentioned in the O.A. by applicant. The above dates are taken from the written statement of the respondents. However, the Learned Counsel for the applicant states that the dates given by respondents would be correct, and in any case, no material difference is seen to be made).

4. Now, we come immediately to the decision of this Bench of the Tribunal quoted above, namely - decision in O.A. No. 1305/95. Para 5 of the aforesaid judgement would be relevant and explains the whole position. I quote this paragraph as below :

"5. The applicant is relying on number of decisions of this Tribunal where the view taken is that when an official resigns the job after 30 years, he or his widow is entitled to ex-gratia payment. The 1967 circular issued by the Railway Board makes it very clear that persons who have resigned with less than 30 years will not get ex-gratia payment, meaning thereby that persons who have resigned after thirty years will certainly get ex-gratia payment. The same holds good as far as 1988 circular is concerned.

Bmb

Yesterday, i.e. on 07.03.2000 we had occasion to consider similar and identical matter in O.A. No. 633/93 and delivered a judgement holding that in an identical case the widow is entitled to ex-gratia payment from the date of death of her husband till her life time. We adopt the same reasoning in this case also. We have noticed the judgements on which the applicant has relied and also contrary view taken by two Hon'ble Single Benches and then held that in view of the 1967 circulars and in view of the fact that applicant's husband has put in more than 30 years service, the applicant is entitled to ex-gratia payment. We do not want to repeat the same reasoning in the present case and we adopt the same reasoning here and we hold that applicant is entitled to ex-gratia payment."

Now admittedly, here also the resignation of the applicant's husband came after a period of over thirty years after he had initially joined service. Hence, the ratio of the aforesaid judgement applies well and truly to the present applicant's case. Thus, the present applicant would be entitled to similar benefits, as decided by the Division Bench in the aforesaid judgement in O.A. No. 1305/95.

5. In view of the reasoning already advanced in this self contained paragraph quoted above, I do not find it necessary to repeat the reasoning for allowing this O.A.

6. In view of the discussions above, this O.A. is allowed in terms of following orders :

- (i) The respondents are directed to sanction and pay ex-gratia payment to the applicant in terms of the Railway Board's instructions i.e. from 01.01.1986 till the life time of applicant.

Bmb

(ii) This order should be implemented within a period of three months from the date of receipt of a copy of this order.

(iii) No order as to costs.

B. N. Bahadur

(B. N. BAHADUR)
MEMBER (A).

OS*