

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 51/90

T.O. XXXX No.

198

DATE OF DECISION

07/01/90

Sulochana D. Kamble ... PetitionerShri H.J.Acharya ... Advocate for the Petitioner(s)

Versus

Union of India & Ors ... RespondentShri N.K.Srinivasan ... Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member (A)

The Hon'ble Mr. D.K.Agrawal, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

D.K.Agrawal
 (D.K.Agrawal)
 Member (J) 15/1/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.51/90

Sulochana D. Kamble ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM: Hon'ble Member (A), Shri M.Y. Priolkar
Hon'ble Member (J), Shri D.K. Agrawal

Appearances:

Shri H.J. Acharya, Advocate,
for the applicant and Shri
N.K. Srinivasan, Advocate,
for the respondents.

JUDGEMENT:

Dated : 15/10/90

(Per. Shri D.K. Agrawal, Member (J))

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the widow of late Dhaktu Kamble claiming:

- a) Payment of family pension.
- b) Death-cum-retirement gratuity and leave encashment.
- c) Interest there-in.
- d) Pension.
- e) Compassionate appointment of the applicant.

It is alleged that Shri Dhaktu Babu Kamble was employed as Khalasi under Inspector of Works (Water & Drainage), Bombay Central and while in service he died on 23.9.1974. The respondents in their ^{cum affidat} contended that the services of Shri D.B. Kamble were terminated on 13.6.74 and he died thereafter on 23.9.1974. Thus no family pension or pension or Death-cum-retirement gratuity, etc. were payable to the widow of the deceased employee nor the widow is entitled to claim appointment on compassionate ground. It is further stated

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that payment of Provident Fund dues of late D.B.Kamble was already made to the applicant, that is the widow of the deceased.

2. The only question which arises for determining ^{whether} is as to whether Shri D.B.Kamble died in harness or that he ceased to hold ^{office} on 13.6.74 as claimed by the respondents. Neither parties file any documents in support of their case. We, therefore, summoned the register ~~and~~ the records of Senior Accounts Officer, Central Railway, to indicate the exact position. The perusal of the register disclosed that there was an entry against the name of Shri D.B.Kamble that his service was terminated on 13.6.74. There was also an entry ^{about} to the payment of Rs.340/- to the widow of the deceased on 6.1.75. Thus it is clear that the widow of Shri Kamble had knowledge that the only dues due according to the employer was paid to her as early as in the year 1975. She chose to remain silent till the year 1990 when the present application was filed. The records ~~were~~ ^{have} alleged to have been weeded out. We have also brought on record the affidavit of Shri I.S.Patel, Assistant Personnel Officer, in the office of DRM, Western Railway, Bombay, dated 9.10.90. It has been clearly mentioned in the aforesaid affidavit that service records and muster rolls for the year 1974 have been weeded out because such records are maintained for a period of five years. He further mentioned that the Accounts Department maintains a register which is available and has been produced before the Tribunal. In the circumstances we have no reason not to place reliance on the ^{register of the office of} Senior Accounts Officer referred to above. On the basis of the entries therein we are inclined to hold that Shri D.B.Kamble ceased to hold the post on 13.6.74 and that he died after his service was terminated. It is also not a disputed fact that Shri Kamble was appointed on 1.7.1967. Thus, he regularly

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served only for a period of about seven years and consequently he did not earn any pension, etc. nor his his widow is entitled to family pension because the employee did not die in harness.

3. In the result the application is liable to be rejected and is rejected without any order as to costs.

D.K. Agrawal

(S.X.9)

(D.K.Agrawal)

Member (J)

M.Y. Priolkar

(M.Y.Priolkar)

Member (A)