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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.918/92

Dt. of order: 14.12.1994

Smt.Vimla Devi

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.S.Kumar, Brief Holder on  
behalf of Mr.J.K.Kaushik,

: Counsel for applicant

Mr.Manish Bhendari

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicant Smt.Vimla Devi, in this application under Sec.19 of the Administrative Tribunals Act, 1985, has mainly sought a direction to the respondents to grant Family Pension to her.

2. In this case, earlier an order was passed by the Tribunal on 30.1.94. The respondents sought a review of the said order on the ground that their reply had not been taken into account while passing the order, although the reply was on record. This contention was found to be factually correct and accordingly the order dated 30.1.94 was recalled. Accordingly, a fresh order is being passed now in this case.

3. We have heard the learned counsel for the parties and have perused the record.

4. The applicant is the widow of late Shri Girraj Prasad, who died on 27.4.1990 while working as a Pointsmen in the office of the Station Master in the Kota Division of the Western Railway at Bijnora. The deceased incumbent was initially appointed as Hot Waterman w.e.f. 3.4.1981. He was further given appointment as an unapproved candidate on 9.10.1982 and posted at Kota. Temporary status was conferred upon him on 5.2.1983 vide Annex.A-3. He was placed in a regular payscale w.e.f. 5.2.1983 after undergoing the requisite medical examination. It is contended on behalf of the applicant that denial of Family Pension to the widow of the deceased

~~Civilian~~ Railway employee is illegal, unwarranted and uncalled for. Since

the provisions contained in the Family Pension Scheme, 1964 contemplate that Family Pension would be admissible to a member of the family of the Railway servant in case of the Railway servant's death while in service or after retirement or after 1.1.1964 provided that the death of the Railway servant while in service had taken place after he had been medically examined and was found fit for the service he had rendered before his death.

5. On the contrary, the respondents contested the application on the ground that the applicant's husband had worked initially as Hot Waterman from time to time to meet the problem of drinking water supply at the Railway Station during summers and the appointment was not of a continuous nature. It is stated by them that the applicant was subsequently appointed as non-approved candidate for the casual work, as non-approved candidates are employed to meet certain emergent needs. The main stand of the respondents is that the applicant was not a permanent employee at the time of his death and therefore, his family is not entitled to any pensionary benefit under the Family Pension Scheme.

6. The Family Pension Scheme for Railway Employees, 1964, came into force w.e.f. 1.1.1964. It is applicable to all regular employees on pensionable establishment-temporary or permanent who are in service on 1.1.1964 or are recruited thereafter. The relevant portion of the said Family Pension Scheme reads as follows:

"(i) The Family Pension will be admissible in case of death while in service or after retirement on or after the 1st Jan. 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. In case of death while in service the Railway servant should have completed a minimum period of one year of service.

(ii) 'Family' for purposes of this Scheme will include the following relatives of the Railway servant.

- (a) wife, in the case of a male railway servant;
- (b) husband, in the case of a female railway servant;
- (c) minor sons; and
- (d) unmarried minor daughters.

Children adopted legally before retirement will be covered in (C) & (D).

2. Without prejudice to the provisions contained in sub-rule (3) where a Government servant dies-

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(aa) before completion of one year of continuous service provided the deceased Government servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for Government service, or

(b) after retirement from service and was on the date of death in receipt of pension, or compassionate allowance, referred to in Chapter V, other than the pension referred to in rule 37.

the family of the deceased shall be entitled to Family Pension 1964 (hereinafter in this rule referred to as family pension) the amount of which shall be determined in accordance with the Table below:

TABLE

Pay of Government servant	Amount of monthly family pension
(i) Below Rs.400	30% of pay subject to a minimum of Rs.60 and a maximum of Rs.100.
(ii) Rs.400 and above but below Rs.1200	15% of pay subject to a minimum of Rs.100 and a maximum of Rs.160.
(iii) Rs.1200 and above	12% of pay subject to a minimum of Rs.160 and a maximum of Rs.250.

Explanation-The expression continuous one year of service wherever it occurs in this rule shall be construed to include less than one year of continuous service."


7. The applicant's husband was unquestionably appointed as non-approved candidate and he was given temporary status and thereafter was given salary in the regular pay scale. The regular pay scale was granted to the applicant's husband w.e.f. 5.2.83 after he had successfully undergone medical examination which is an essential condition for grant of Family Pension. The fact that the applicant was subjected to a medical examination before the death and he was declared fit for service has not at all been denied by the respondents in their reply. It is, thus, clear that the husband of the applicant served as an employee of the respondents continuously from 9.10.1982 till his death on 27.4.1990 and died while serving as Pointsman in the Office of the Station Master in the Kota Division of the Western Railway at Bijnora.

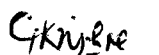
8. In view of what has been stated above, we find that the applicant being the widow of the deceased Railway servant is entitled to the grant of Family Pension. In the result, the respondents are directed to grant Family Pension to the applicant Smt.Vimla Devi, as per rules. The pension payment order may be issued

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within a period of 4 months from the date of the receipt of a copy of this order. The O.A. is allowed accordingly with no order as to costs.

  
( O.P.Sharma )  
Member (A).

  
(Gopal Krishna)  
Member (J).