

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

D.A. 858/91.

Dt. of Decision : 13.6.94.

Smt. Barasa Managamma

.. Applicant

Vs

1. Permanent Way Inspector,
SC Rly, Madanapalli.
2. Senior Divisional Personnel Officer,
SC Rly, Guntakal.
3. Divisional Medical Officer,
Railway Health Unit,
Madapanalli Road.
4. Senior Medical Superintendent,
SC Rly., Hospital, Guntakal. .. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. N. Rajeswara Rao for
Mr. D. Gopal Rao, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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OA.858/91

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, Vice Chairman)

Heard Sri G.V. Subba Rao, learned counsel for the applicant and Sri N. Rajeswara Rao, for Sri D. Gopal Rao, learned Standing counsel for the respondents.

2. This is an unfortunate case of a claim for family pension of the applicant who had become a widow about 16 years back and for reasons which are said to be beyond control of the respondents the OA could not be decided till today.

3. The applicant asserts that her husband joined as Casual labourer in 1955 and he attained temporary status after completion of 120 days under Permanent Way Inspector Madanapalli, South Central Railway. It is not in controversy that the services of the applicant's husband was regularised on 12-10-1965. He was medically decategorised in the categories except C-2 with effect from 4-10-1975 as per the proceedings of even date (vide page 13 of the material papers).

4. It is stated for the applicant that inspite of the representation of the husband of the applicant, he was not considered for C-2 category and he died on 14-3-1977. After the death of her husband, the applicant was making representations for ~~terminal benefits~~ payment of P.C.R.G. and family pension. The Provident Fund (GPF) was made in 1989. The respondents have not paid family pension by stating that the total period of qualifying service of the husband of the applicant was less than 10 years. Being aggrieved the applicant filed this OA.

AK

Qrgw

5. As per Railway Board's letter No.E(NG)II/78/CL/12 dated 14-10-1980 and the subsequent letters of the Railway Board, half of the service rendered by a Casual Labourer from the date of attaining temporary status till the date of regularisation counts for pensionary benefits. When it was alleged for the applicant that her husband joined as Casual Labourer in 1955 ~~with~~ giving the Token No. ^{and} 302, on completion of 120 days of services as Casual Labourer and from the date of initial engagement he attained temporary status. ^{it} is one of verification on the basis of the record maintained by the concerned authority. One of the records for verification will be service register and it is permanent register.

6. It is stated for the respondents that the service register of the applicant was destroyed in fire and no other relevant record is available in the concerned office for verification of facts alleged for the applicant in regard to the year of engagement of her husband as Casual Labourer and the date on which he attained temporary status.

7. So, in the circumstances we are constrained to accept the case of the applicant about the year of engagement of her husband as Casual Labourer and also about attaining of temporary status on completion of 120 days from the date of initial engagement. The period from the date of attaining temporary status of the husband of the applicant till the date of his regularisation in 1965 can be roughly fixed at 10 years, and hence five years being half of 10 years should be added to the qualifying service from 1965.

JK

Copy to:-

1. Permanent Way Inspector, S.C.Railways, Madanapalli.
2. Senior Divisional Personnel Officer, S.C.Railways, Guntakal.
3. Divisional Medical Officer, Railway Health Unit, Madanapalli Road
4. Senior Medical Superintendent, S.C.Railways, Hospital, Guntakal.
5. One copy to Sri G.V.Subba Rao, Advocate 1-1-230/33, Chikkadapalli, Hyderabad-500 020.
6. One copy to Mr.D.Gopal Rao, S.C. for Railways, CAT, Hyderabad.
7. One copy to Library.
8. One spare.

kku.

P.S. Jan 22/6/19

24

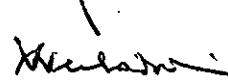
8. When the above period of five years is added to the ^{from 1965} qualifying service, the total period of service rendered by the applicant's husband comes to more than 10 years and hence the applicant is eligible for family pension.

9. When the applicant is entitled for family pension from 1979 this OA was filed only on 4-9-1991. This Bench is holding that the ~~right to pay~~ ^{claim for difference in} family pension/pension is a continuing right and hence the claim for ~~pay~~ difference of pay/pension/family pension cannot be rejected ~~per se~~ on the mere ground of limitation as it will be a case of continuing right and monetary benefits have to be limited from one year prior to the date of presentation of the OA. We feel that the applicant ~~could~~ ^{should} also be given monetary benefits accordingly.

9. In the result, this OA is disposed of accordingly. Five years should be added to the qualifying service which has to be determined from 12-10-1965 in accordance with the rules ^{on the basis of} and ~~if~~ the record is available with the respondents. The monetary benefit in regard to family pension has to be given to the applicant from 1-9-1990 as this OA was presented on 4-9-1991.

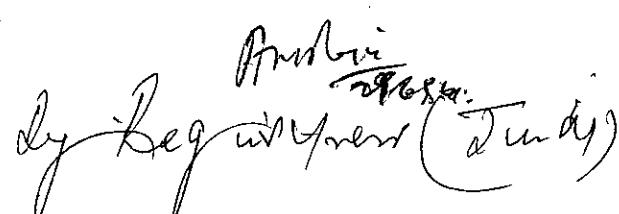
10. Time for compliance is ^{by} 17th October, 1994. No costs.


(R. Rangarajan)
Member (Admn)


(V. Neeladri Rao)
Vice Chairman

Dated : June 13, 94
Dictated in Open Court

sk


by B. G. Venkateswaran (Tandy)

Coofd.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.G RTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKAR REDDY
MEMBER(CUDL)

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 13-6-1994.

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

O.A.No. 878/91

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs

pvm

