

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

(33)

O.P. No. 939/91

Date of Decision: 15.9.1992

~~T.A.No.~~

Kodali Joshi Bai Petitioner.

Mr. M.V.S. Suresh Kumar Advocate for  
the Petitioner(s)

Versus

The General Manager, S.C.Rly.,  
Railway Nilayam, Secunderabad. Respondent.

Mr. Jalli Siddaiah Advocate for  
the Respondent.  
(s)

CORAM:

THE HON'BLE MR. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgment? NO
2. To be referred to the Reporters ~~or not~~? Yes
3. whether their lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? NO
5. Remarks of Vice Chairman on Columns 1, 2, 4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench.)

*T. S. N.*  
(HTCSR)  
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 939/91

Date of Order: 15.9.1992

BETWEEN:

Kodali Joshi Bai

.. Applicant.

A N D

The General Manager,  
South Central Railway,  
Railway Nilayam,  
Secunderabad.

.. Respondent.

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Counsel for the Applicant

.. Mr.M.V.S.SureshKumar

Counsel for the Respondents

.. Mr.J.Siddaiah

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CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUD L.)

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(Order of the Single Member Bench delivered by  
Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.) ).

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T. Chandrasekhara Reddy

5/12/92

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay the family pension to the applicant herein w.e.f. 19.12.1984 and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:

2. The husband of the applicant herein is one Kodali Yesudas. He is an ex-serviceman. He was working as substitute Khalasi in the CTR Depot, Vijayawada w.e.f. the year 1972. The screening of Casual Labourers was conducted in the year 1979. The applicant had put in 2059 days of substitute service as on 1.11.1977. But he did not present himself before the screening committee in the year 1979. Subsequently another screening was held in the month of February, 1984 in respect of Casual Labourers/Substitute of the C&W Department, Vijayawada who had put in 240 days or more service as on 1.1.1983. By 1.10.1983 the applicant's husband Yesudas had put in 4244 days of substitute service. Even for the screening that was held in the year 1983 the applicant absented himself. While matters stood like that, the applicant remained absent from duties from 26.11.1983 onwards;

3. The whereabouts of the applicant's husband are not known from 26.11.1983 onwards. It is the case of the applicant as the applicant's husband Yesudas had been working in the Railways as Substitute from the year 1972 onwards and ~~he~~ has put in more than 11 years of service by 26.11.1983 and as the whereabouts of the applicant's husband (Yesudas) are not known that the applicant is entitled for pension. Hence the present OA is filed for the relief as already indicated above.

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4. Counter is filed by the respondents opposing this OA.

5. Today we have heard Mr.M.V.S.Suresh Kumar, Advocate for the applicant and Mr.Jalli Siddaiah, Standing Counsel for the respondents.

6. The fact that the whereabouts of the applicant's husband are not known from 26.11.1983 is not in dispute in this OA. Where the whereabouts of a person are not known for a continuous period of 7 years, there is a presumption in law that the said person is not alive and is dead. So in view of the said presumption it has got to be inferred that the applicant's husband Yesudas had died by 26.11.1983 from which date his whereabouts are not known.

7. Now the first and foremost question that arises for consideration is whether the applicant is entitled for family pension? Unless the said Yesudas was qualified to receive pension, the applicant herein will not be eligible for family pension. The material placed before this Tribunal would go to show that the said Yesudas had only attained temporary status. His services had not been regularised. The said Yesudas was not qualified to receive pension. In this context we may refer to a decision of Supreme Court reported in A.I.R. 1988 SC 390 Ram Kumar Vs. Union of India and respondents wherein it is <sup>laid down</sup> mentioned as follows ( <sup>Quoted</sup> Judgment )

"It is the stand of the learned Additional Solicitor General that no pensionary benefits are admissible even to temporary railway servants and, therefore, that retiral advantage is not available to casual labour acquiring temporary status. We have been shown the different provisions in the Railway Establishment Manual as also the different orders and directions issued by the Administration. We agree with the learned Additional

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Solicitor General that retiral benefits of pension is not admissible to either category of employees."

So in view of the categorical observation of the Supreme Court in the said Judgement that no pensionary benefits are admissible even to temporary railways servants, the said Yesudas had no right to receive pension as his services were not regularised as already pointed out. As the applicant's husband Yesudas had no right to receive the pension the applicant herein who is the wife of Yesudas is not eligible for pension. In view of this position we find ~~th~~ no other alternative except to dismiss the OA. Hence we dismiss the OA, leaving the parties to bear their own costs.

*T. Chandrasekhara Reddy*  
(T. CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 15th September, 1992

*23/9/92*  
Dy. Registrar (Judl.)

(Dictated in the Open Court)

Copy to:-

1. The General Manager, South Central Railway, Rail Nilayam, Secunderabad.
2. One copy to Sri. M.V.S. Sureshkumar, advocate, 10-5-64/10, Sri Ramnagar colony, Masab tank Lancer, Hyd-28.
3. One copy to Sri. J. Siddaiah, SC for Railways, CAT, Hyd.
4. Copy to Reporters as per standard list of CAT, Hyd.
5. One spare copy.
6. *one copy to D.K. (J)*

Rsm/-

*Retired 2/10/92*  
*23/9/92*  
*7/1*

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TYPED BY W COMPARED BY  
CHECKED BY W APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR.

AND

THE HON'BLE MR. T. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:  
MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 15/9/1992

~~ORDER~~ / JUDGMENT

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

O.A.No.

in  
939/91

~~T.A.No.~~

(~~W.P.No~~)

Admitted and interim directions  
issued

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered /  Rejected

~~No orders as to costs.~~

pvm.

Central Administrative Tribunal  
DESPATCH  
29 SEP 1992  
HYDERABAD BENCH