

(55)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 228 of 1995

DATE OF ORDER: 14th February, 1997

BETWEEN:

K.MANIKYAM

.. APPLICANT

AND

Union of India rep. by

1. The Chief Administrative Officer (Projects),
S.E.Railway, Bhubaneswar,
2. The Chief Project Manager,
S.E.Railway, Visakhapatnam-2,
3. The Divisional Railway Manager,
S.E.Railway, Bilaspur (MP),
4. The Divisional Railway Manager,
S.E.Railway,
Visakhapatnam.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.Y.SUBRAHMANYAM

COUNSEL FOR THE RESPONDENTS: Mr.C.V.MALLA REDDY, Addl.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

ORDER

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.Y.Subrahmanyam, learned counsel for the applicant and Mr.C.V.Malla Reddy, learned standing counsel for the respondents.

2. The applicant in this OA is wife of one late K.Sambasiva Rao who was appointed as Casual Fitter Khalasi

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under the Divisional Operating Superintendent, Railway Electrification, S.E.Railway, Bilaspur with effect from 25.4.69^{and} died on 13.5.76 while employed as Casual Labourer. It is stated for the applicant that he was called for screening on 9.7.73. But he died even before he was regularised on the basis of the screening. There is no mention in the OA that after he had screened and found fit, his turn had come for regular absorption *before his death*.

3. This OA is filed praying for direction to the respondents to grant family pension and DCRG to the applicant herein who is the wife of late Shri Sambasiva Rao, as applicable to temporary railway servants and to arrange payment of arrears of pension, relief on pension and gratuity.

5. The eligibility of family pension to ~~all~~ the widows of casual labour who died in harness was considered in depth in OA 1289/96 decided on 10.1.97. It was held in that OA after analysing the rule position and also the judgements of Calcutta Bench of the Tribunal and other Benches of the High Court and also the cases decided by the Supreme Court, a casual labour when died without being regularised is not entitled for regular pension. If an employee is not entitled for regular pension, then his wife cannot claim family pension. It was also held in that OA that in case the casual labourer is screened, he will get his regular pension only if he proves that there was a vacancy and he was in turn for fitting in that vacancy and but for the delay in fitting him he could not be regularised. Such is not the case for the applicant in

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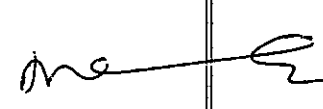
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this OA. Hence we feel that the applicant is not entitled to claim family pension as her husband himself is not entitled for pension. However, the authorities can examine her case if such a request is received from the applicant for regularisation of services of her husband and to grant her family pension taking recourse to Rule 107 of the Miscellaneous Chapter XII of the Railway Servants (Pension) Rules, 1993 as a measure of social justice.

6. In the result, the OA is dismissed subject to the observations made above in regard to the dispensation taking recourse to Rule 107 of the Railway Servants (Pension) Rules. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

14/2/97


(R. RANGARJAN)
MEMBER (ADMN.)

DATED: -14th-February, -1997
Dictated in the open court.

vsn

Dr. Registrar (3)

: 4 :

Copy to:-

1. The Chief Administrative Officer(Projects), Union of India, S.E.Rly, Bhubneswar.
2. The Chief Project Manager, S.E.Rly, Visakhapatnam.
3. The ~~Sixtyfourth~~ Divisional Railway Manager, S.E.Railway, Bilaspur (MP).
4. The Divisional Railway Manager, S.E.Rly, Visakhapatnam.
5. One copy to Sri. Y.Subrahmanyam, advocate, CAT, Hyd.
6. One copy to Sri. C.V.Malla Reddy, SC for Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One copy to Deputy Registrar(A), CAT, Hyd.
9. One spare copy.

Rsm/-

0/13/97
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 14/2/97

Order/Judgement ✓
R.P/C.P/M.A. NO.

in
D.A. NO. 222/95

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS
DISMISSED ✓
DISMISSED AS WITHDRAWN
DISMISSED FOR DEFAULT
ORDERED/REJECTED
NO ORDER AS TO COSTS. ✓

II COURT

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