

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO.320/95

Between:

Date of Order: 27.6.95.

Smt. Ch.Koteswaramma

...Applicant.

And

1. The General Manager,
South Central Railway,
Secunderabad.
2. The Divisional Railway Manager,
South Central Railway,
Vijayawada.
3. The Ministry of Pension and Pensionary
Welfare, Govt. of India,
Behind Khan Market,
New Delhi - 3.

...Respondents.

Counsel for the Applicant : Mr.K.Venkateswarulu

Counsel for the Respondents : Mr.N.R.Devraj, Sr. C GSC

CURAM:

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

CONTO...

O.A. 320/95.

Dt. of Decision : 27-06-95.

ORDER

1 As per Hon'ble Shri R. Rangarajan, Member (Admn.) 1

The applicant is the widow of one Late Shri Ch. Satyanarayana, who retired as Lascar under IDW, Bitragunta. It is stated in the application that late Shri Ch. Satyanarayana was granted A.P. Scale on 10-05-1967 and retired from service on 30-06-1984 on attaining the age of superannuation. It is further stated that late Shri Ch. Satyanarayana was absorbed in service as Lascar in the scale of Rs. 196-232/- on 30-06-19984 that is at the time of retirement. He died on 11-01-1991 leaving behind the applicant as his legal heir and he had no issue.

The contention of the applicant is that her late husband is entitled for counting the qualifying service from the date he attained temporary status that is four months after he was taken as a casual labour. She also rely on the judgement of this Tribunal in DA.No. 1020/92 decided on 24-02-1994 and also the decision of the Apex Court reported in 1992 (4) SCC 118 (State of Haryana Vs. Piara Singh and Others) to state that her husband is entitled for pension and hence she is entitled for family. She has represented her case to the concerned authorities by a representation dated 12-01-1994 addressed to the Divisional Railway Manager (P), Bazawada. A reply was given dated 6th April 1994 (Annexure-I) rejecting her claim for family pension, as her late husband was not in receipt of the pension as his minimum qualifying service at the time of his retirement was less than 10 years.

2. Aggrieved by the above reply she has filed this application praying for quashing the impugned order No. P/E/177/ Dept./CH/8/93, dated 06-04-1994 as illegal, arbitrary, without jurisdiction and contrary to the rules and judgements and against

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the principles of natural justice and for a consequential direction to the respondents to take into account the period of service of her late husband from his date of initial engagement to date of retirement as qualifying service for calculating the retirement benefits to which the applicant is entitled and pay her all Family Pension, Gratuity and retirement benefits etc.,

3. I have heard Shri K.Venkateswarlu, learned counsel for the applicant and Shri N.N. Devare, ~~learned~~ counsel for the respondents.

4. Reply of R-1 dated 6th April 1994 (Annexure-I) does not indicate the date of initial engagement of her late husband Shri Ch.Satyanarayana as a casual labour. Normally, a casual labour attains the temporary status after a lapse of four months from the date of initial engagement. It is stated for the applicant that he has been given A.P. Scale on 10-05-1967 and retired from service on 30-06-1984. If he had casual service earlier to 10-05-1967 the reason for not counting that period for purpose of calculating the qualifying service has to be indicated. It is also held by this Tribunal in O.A.No.1020/92 (Smt.N.Atchamma Vs. General Manager and Others) that "the applicant in that OA would be entitled to temporary status as soon as she completed 120 days from the date of her initial engagement. Further direction was also given to the respondents in that OA to grant her temporary status from the date of completed 120 days of service rendered by the applicant after thus having acquired temporary status would be considered for the purpose of calculating her pensionary benefits in accordance with the extant rules". It is not clear whether the respondents in this OA have taken note of the judgement of this Tribunal in the above referred OA. The

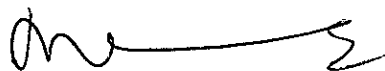
applicant also relied on the judgement of the Supreme Court reported in 1992(4) SCC 118 (State of Haryana Vs. Piar Singh and Others) to state that she is also entitled for family pension as ~~14 years of casual labour~~ her case is similar to the one adjudicated by Apex Court referred to above.

5. In view of the judicial pronouncement as above, it is essential that this case needs review by R-1, taking into account the judgement of this Tribunal and that of Supreme Court referred to above. As the applicant is in distressed condition it is essential that a decision is taken by R-1 without any further loss of time.

6. In view of what is stated above the following direction is given.

7. The letter of R-1 dated 6th April 1994 is set-aside. R-1 should re-consider the whole case afresh on the basis of the observation made by me as above and give a detailed speaking order which should be communicated to the applicant within a week of the order. If the applicant is aggrieved by the reply to be received from R-1 she is at liberty to approach this Tribunal by filing a fresh DA under Section 19 of the Administrative Tribunals Act, 1985.

8. The DA is ordered accordingly at the admission stage itself. No costs.


(R. Rangarajan)
Member (Admn.)

Dated : The 27th June 1995.
(Dictated in Open Court)

AM/Ami 5785
Deputy Registrar (J)

Contd...

CA 322/95

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI ~~A.V. HARIDASAN~~: MEMBER (J)

R. Rangarajan
THE HON'BLE SHRI ~~A.D. GORTHY~~: MEMBER (A)

DATED 27.6.95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

O.A.NO. 320/95

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

~~Rejected~~/Ordered. *Accordingly*

No order as to costs.

No spare copy

YLKR

Central Administrative Tribunal
DESPATCH
10 JUL 1995 NSUP
HYDERABAD BENCH

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