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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH :AT

HYDERABAD

O.A.No.1331 OF 1997.

Date of Order:16-3-1998.

Between :

S.Sulochanamma.

.. Applicant

and

1. The Chairman, Railway Board
(reptd. Union of India),
New Delhi-110 007.
2. The Divisional Railway Manager,
Vijayawada Division,
Vijayawada-520 003.
3. Station Superintendent,
Gudur Railway Station,
Gudur -524 101.

.. Respondents

COUNSEL FOR THE APPLICANT :: Mr.C.Suryanarayana

COUNSEL FOR THE RESPONDENTS :: Mr.J.R.Gopala Rao

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

: ORDER :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.C.Suryanarayana, learned Counsel for the Applicant and Ms.Shakthi for Mr.J.R.Gopal Rao, learned Counsel for the Respondents.

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2. The applicant in this O.A. is the wife of one late Sri S. Anand who was initially engaged as Casual Labourer on 10-6-1969. Late Sri S. Anand was brought on temporary status with effect from 10-12-1969. The said Anand was sick from 1-4-1979 to 19-8-1979. He was declared unfit for duty on 20-8-1979 while he was working as Casual Labourer and he expired on 23-5-1980.

3. This O.A. is filed praying for a direction to the Respondent-authorities to grant the applicant herein family pension together with arrears thereof with effect from 24-5-1980 i.e., from the day after the death of her husband.

4. A reply has been filed in this O.A. The respondents submit that the husband of the applicant viz., late S. Anand had worked for more than 10 years continuously as Casual Labourer but could not be absorbed in any Group- 'D' posts due to non-availability of vacancies. As per the Railway Service Pension Rules, 1993-Para.75 states that only a Railway Servant entering service in pensionable Establishment on or after 1-1-1964 and Railway Servant who was in service on 31-12-1963 and came to be governed by the provisions of the Family Pension Scheme for Railway Employees 1964 are eligible for family pension in the event of the death of Railway Servant while in service. Hence Para-75 is enclosed to the O.A. However, the widow is not eligible for family pension as the husband of that applicant, the widow is not regularised in service. Hence the applicant herein is not entitled for family pension.

5. The applicant herein is being engaged as Seasonal Waterwomen on humanitarian grounds and also has been paid Gratuity and P.F. as per rules. In view of the above, the

applicant is not entitled for family pension as prayed for in this O.A.

6. The question of granting family pension to a widow of a Railway Employee who was not regularised and continued as a Casual Labourer till the ~~end of the~~ death of that employee was considered vividly in the Judgment dated:10-1-1997 in O.A. No.1289 of 1996. After elaborate discussions it was held that a Casual Labourer who died in service without being regularised is not entitled for pension and hence the family pension is also ^{can} ~~being~~ not be given to the widow of that deceased casual labourer. However, in the said Judgment, we have held that the applicant in that O.A. can file a representation to grant her family pension taking recourse to Rule 107 of Miscellaneous Chapter.12 of Railway Servants' (Pension)Rules,1993 as a measure of social justice. The applicant herein may also submit a detailed representation taking recourse to Rule, if so, advised to grant her family pension.

7. The above view of ours was confirmed by the Hon'ble Supreme Court in the case of UNION OF INDIA & OTHERS Vs RABIA BIKANERI (reported in 1997, 4 SIR 717), wherein it was held that a widow of the Casual Labourer who died after putting six months temporary service is not eligible for family pension benefits.

8. In view of the above, the applicant cannot get family pension as her husband was a Casual Labourer on temporary status at the time of his death. Hence the O.A. is to be dismissed and accordingly it is dismissed. However, the applicant is at liberty to submit a detailed representation to the appropriate respondent-authorities to grant family

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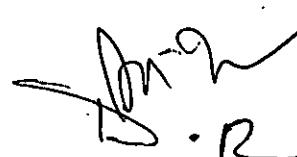
pension on the basis of Rule 107 of Miscellaneous Chapter.12 of Railway Servants' (Pension) Rules, 1993 as a measure of social justice. If such a representation received, the respondents will decide the issue on the basis of the facts of this case using their discretion. The O.A. is ordered accordingly. No costs.



(R.RANGARAJAN)
MEMBER (A)

Dated :this the 16th day of March, 1998

Dictated in open Court



DSN

DA.1331/97

Copy to :-

1. The Chairman, Railway Board, New Delhi.
2. The Divisional Railway Manager, Vijayawada Division, Vijayawada.
3. The Station Superintendent, Gudur Railway Station, Gudur.
4. One copy to Mr. C.Suryanarayana, Advocate, CAT., Hyd.
5. One copy to Mr. J.R.Gopala Rao, Addl.CGSC., CAT., Hyd.
6. One copy to D.R.(A), CAT., Hyd.
7. One duplicate copy.

srr

20/3/98
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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

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

DATED :

16/3/98

ORDER/JUDGMENT

M.A./R.A./C.A. NO. -

in

C.A. NO.

1331/97

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

YLKR

