

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. 128/93

Date of decision: 6.4.94

SMT. MANGLI DEVI

: Applicant.

VERSUS

UNION OF INDIA

: Respondents.

Mr. J.K. Kaushik

: Counsel for the applicant.

Mr. U.D. Sharma

: Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

Admittedly, the applicant has served for more than one year and was holding the post, according to Mr. U.D. Sharma, learned counsel for the respondents, as temporary status holder. He wants to make a submission that a person who is holding the temporary status on account of the completion of the service of more than one year cannot be considered as a holder of the temporary post. The applicant's husband was a coalman and most of the posts of the coalman were of regular nature, particularly, when the diesel engines were not used or were used in small quantity and the steam engines were used in large quantities. On 14.5.93, Mr. U.D. Sharma, appeared on behalf of the respondents and prayed four weeks time to file the reply. However, the reply was not filed upto 6.8.93, i.e. for a period of 11 weeks after the grant of time. Even on that date directions were given that the reply shall be entertained with the permission of the court. No application for granting the permission to file the reply has been made even upto this date. Thus, more than 7 months' period has passed after the passing of the order dated 6.8.93 and Mr. Sharma gave the application that he should be allowed to file the reply as directed by the court. The directions were very limited that the reply shall be entertained with the permission of the court and this was to expedite the disposal of the cases and to honour the

law of the land and particularly, the Act of the Central Administrative Tribunals which directs that the cases should be disposed of within a period of six months ordinarily.

2. Family Pension Scheme for Railway Employees, 1964, Clause (2) provides that without prejudice to the provisions contained in sub-rule(3) where a Government servant dies - (a) after completion of one year of continuous service. 'Continuous service' has also been defined under the Pension Rule 14(a) which reads as under:-

"Continuous service" means service rendered in a temporary or permanent capacity in a pensionable establishment".

Admittedly, Railway is a pensionable establishment and the applicant has worked continuously for more than one year as a temporary status holder. Mr. Kaushik submits that Section 10 on the Family Pension Scheme for Railway Employees, 1964 is there (Page 879) in the Book entitled 'Railway Establishment Law and Practice by M.L. Jand. Mr. Sharma submits that he is not sure about the correctness of the Book. He further submits that he is having a Manual of Railway Pension Rules, 1964. He submits that under the rule 18(d), there is a provision that casual daily rated employees, casual employees/treated as temporary staff until they are absorbed against regular, permanent/temporary posts are not entitled for family pension. No reply has been filed to show whether the applicant was working against the regular, permanent or temporary post or not. This fact can be better known to the respondents. A person holding a temporary status should ordinarily be considered as a temporary employee and it is for the respondents to show that the temporary status holder was working against the temporary post or a regular post. If the respondents fail to answer

/the family of  
the deceased  
shall be entitled  
to Family Pension  
1964.

this question or fail to reply then ordinarily it is assumed that a person who has been given a temporary status is working against a temporary post and a Class 'D' employee who is working against a temporary post and if he dies, he is entitled for family pension after the completion of one year.

3. In the result, the O.A. is accepted. The respondents are directed to give the family pension to Smt. Mangli Devi according to rules, treating her as a widow of the deceased who was a temporary status holder of a temporary post and treating him temporary employee for all purposes. The Pension Payment Order should be issued within a period of three months after the receipt of this order.

4. The O.A. stands disposed of accordingly, with no order as to costs.

*D.L. Mehta*  
( D.L. MEHTA )  
Vice-Chairman