

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.51/94

Dt. of order: 7.12.1994

Smt.Hura

: Applicant

Vs.

Union of India & Anr.

: Respondents

Mr.S.Kumar

: Counsel for applicant

Mr.M.Rafiq

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.)

PER HON'BLE MR.GOPAL KRISHNA, MEMBER(JUDL.).

Applicant Smt.Hura in this application under Sec.19 of the Administrative Tribunals Act, 1985, has mainly sought a direction to the respondents to grant Family Pension to her and release other dues of her husband as per rules.

2. Heard the learned counsel for the parties. The applicant is the widow of late Shri Amin, who was appointed as a Casual Labour on 8.5.1985. He was granted temporary status vide order dated 21.3.1989 w.e.f. 15.1.1989. The applicant's husband was examined by the Divisional Medical Officer, Western Railway Hospital, Ajmer and he was declared medically fit. He had passed the screening test on 17.6.1988 and was allowed to enjoy the status of Temporary Railway Servant. He was engaged as a Casual Labour with artificial breaks upto 1.4.1988 and thereafter he continued in service without any break till his death on 13.6.1989. The applicant states that since the death of her husband had taken place while in service and he was a temporary status holder, she is fully eligible to get the Family Pension as the widow of the deceased railway employee. The application has been contested by the respondents on the ground that since the deceased Shri Amin, husband of the applicant, himself was not entitled to any pension being a casual labour worker, no Family Pension or other benefits can be allowed to the applicant. It is also stated that the Family Pension Scheme is applicable to regular employees of the pensionable establishment - temporary or permanent and Shri Amin not being a regular employee on pensionable establishment

temporary or permanent was not entitled to any pension and therefore, his widow cannot claim the same.

3. The Family Pension Scheme for Railway Employees, 1964, came into force w.e.f. 1.1.1964. It is applicable to all regular employees on pensionable establishment-temporary or permanent who are in service on 1.1.1964 or are recruited thereafter. The relevant portion of the said Family Pension Scheme reads as follows:

"(i) The Family Pension will be admissible in case of death while in service or after retirement on or after the 1st Jan. 1964, if at the time of death, the retired officer was in receipt of a compensation, invalid, retiring or superannuation pension. In case of death while in service the Railway servant should have completed a minimum period of one year of service.

(ii) 'Family' for purposes of this Scheme will include the following relatives of the Railway servant.

- (a) wife, in the case of a male railway servant;
- (b) husband, in the case of a female railway servant;
- (c) minor sons; and
- (d) unmarried minor daughters.

Children adopted legally before retirement will be covered in c & d.

2. Without prejudice to the provisions contained in sub-rule (3) where a Government servant dies-

- (a) after completion of one year of continuous service, or
- (aa) before completion of one year of continuous service provided the deceased Government servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for Government service, or
- (b) after retirement from service and was on the date of death in receipt of pension, or compassionate allowance, referred to in Chapter V, other than the pension referred to in rule 37.

the family of the deceased shall be entitled to Family Pension 1964 (hereinafter in this rule referred to as family pension) the amount of which shall be determined in accordance with the Table below:

TABLE


Pay of Government servant	Amount of monthly family pension
(i) Below Rs.400	30% of pay subject to a minimum of Rs.60 and a maximum of Rs.100.
(ii)Rs.400 and above but below Rs.1200	15% of pay subject to a minimum of Rs.100 and a maximum of Rs.160.
(iii)Rs.1200 and above	12% of pay subject to a minimum of Rs.160 and a maximum of Rs.250.

Explanation-The expression continuous one year of service (wherever it occurs in this rule shall be construed to include less than one year of continuous service".

4. Family Pension under the Family Pension Scheme, 1964, was made applicable to a government servant who died before completion of one year of continuous service provided the deceased Railway

servant concerned immediately prior to the appointment to the service or post was examined by the appropriate Medical Authority and declared fit by that Authority for Government/Railway service. The applicant's husband was medically examined by the Divisional Medical Officer of the Western Railway Hospital at Ajmer on 27.4.88 and he was considered fit for appointment vide Annx.A3 dated 27.4.1988. In view of what has been stated above, I find that the applicant being the widow of the deceased Railway servant is entitled to the Family Pension because her deceased husband had acquired temporary status as a Casual Labour and he was declared medically fit by the appropriate Medical Authority for appointment and that he had died while in service on 13.6.1989.

5. In the result, the respondents are directed to grant Family Pension to the applicant Smt.Hura, as per rules. The pension payment order may be issued within a period of 4 months from the date of the receipt of a copy of this order. The O.A. is allowed accordingly with no order as to costs.

  
Gopal Krishan  
Member (J).