

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.3/99

Date of order: 17/8/2000

Keshanti, W/o late Sh.Bhattu Lal Verma, C/o Pooran Chand Ameria,  
Jawahar Colony, Mohu, Gangapur City.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant.

Mr.T.P.Sharma )-Counsel for respondents.

Mr.Balvender Singh)

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to grant family pension and other retiral benefits to the applicant w.e.f. 11.6.86 and to pay the arrears of family pension with interest.

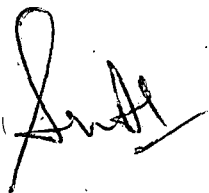
2. In brief facts of the case as stated by the applicant are that husband of the applicant was initially appointed as substitute on 21.9.79 in the pay scale of Rs.750-940 and he was granted temporary status on 21.7.81. He expired on 10.6.86. It is stated that the husband of the applicant who was appointed as substitute against a vacant post served with the respondents for more than 6 years. He was allowed regular scale of pay and other benefits available to a permanent/temporary railway servant. Provident Fund was deducted from his salary, therefore, widow of the deceased employee was entitled to family pension and other retiral benefits but the respondents have not granted the family pension to the applicant. The applicant made

representation on 28.11.98 but till date the respondents have not granted family pension to the applicant. It is also stated that as per Railway Rules, the applicant is entitled to family pension, therefore she filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is admitted that the husband of the applicant was engaged on 21.9.79 and he was granted temporary status on 21.7.81. Provident Fund was also deducted from the salary of the deceased employee, but the applicant is not entitled to family pension as she is a widow of a temporary railway servant and the rules narrated by the applicant are not applicable in the instant case. Therefore, the applicant has no case and this O.A is devoid of any merits is liable to be dismissed.

4. Heard the learned counsel for the applicant and also perused the whole record.

5. The applicant has specifically put up his case for family pension on the ground that her husband was appointed as substitute on 21.7.79 and after working for more than 6 years he expired on 10.6.86. The husband of the applicant was getting the scale of pay of the post, Provident Fund contribution was also deducted from his salary and he was availing all the facilities of a temporary railway servant. Rule 2311(3)(b) of the IREM provides that the widow/widower/minor children of a temporary railway servant, referred to in the preceding sub-para, who dies while in service after a service of not less than one year continuous (qualifying) service shall be eligible for family pension under the provisions of para 801 of the Manual of Railway Pension Rules. Rule 2315 of the said rules defines 'substitutes' are persons engaged in Indian Railway Establishment on regular scales of pay and allowances applicable to posts against which they are employed. The post may fall vacant on account of a Railway servant being on leave or due to non-availability of permanent or temporary railway servants and which cannot be kept vacant. Rule 2317 of the said rules provides that substitutes should be paid regular scales of pay and allowances admissible to such



points, irrespective of the nature or duration of the vacancy. Rule 2318 of the said rules also provides for rights and privileges as may be admissible to temporary railway servants, from time to time on completion of 6 months continuous service.

6. In the instant case, on a perusal of the averments of the parties, it becomes abundantly clear that husband of the applicant was engaged as substitute on 21.9.79 and he was conferred temporary status on 21.7.81 and after completing more than 6 years of service he expired on 10.6.86.

7. The learned counsel for the applicant has argued that the applicant is entitled to family pension as her late husband was a substitute and he served for more than 6 years as substitute, therefore, in view of the provisions contained in the IREM, the applicant, a widow of a substitute, is entitled to family pension with effect from the date of death of her husband. In support of his contention, he has referred to a decision of the Lucknow Bench of the Tribunal reported in 1999(3) CAT, 155, Smt.Kamini Srivastava Vs. UOI & Ors. In this case, it was held by the Lucknow Bench that substitute are in better position than casual labourer in the matter of claiming pension, therefore, the applicant is entitled to family pension, as per rules.

8. I have given anxious consideration to the contention of the learned counsel for the applicant and also perused the whole record.

9. In M.G.Ramani bai Vs. UOI & Ors, reported in 1997(36) ATC 603, the Ernakulam Bench of the Tribunal has held that husband of the applicant working as substitute against a sanctioned post and if he dies the widow of such employee is entitled to family pension. The same view was taken by Lucknow Bench of the Tribunal in Smt.Kamini Srivastava Vs. UOI & Ors (supra) in which it was held that the applicant's husband was working as substitute in Railways and was granted temporary status, died after serving 11 years, the widow of such employee is entitled to Family pension.

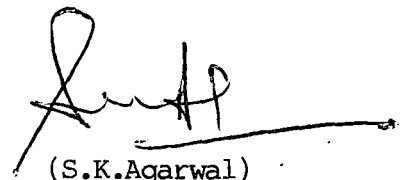
10. In Smt.Somwan Devi Vs. UOI & Ors, 1999(2) ATJ 633, Allahabad Bench of the Tribunal has held that a substitute who have completed 6 months

continuous service is entitled to temporary status in Railways and widow of such employee having temporary status is entitled to family pension.

11. Undisputedly, the husband of the applicant worked as substitute for more than 6 years before his death, he was conferred temporary status in the year 1981 and he was getting all the facilities available to a temporary railway servant before his death. Therefore, in view of the facts and circumstances of the case and the settled legal position, the applicant is entitled to family pension.

12. I, therefore, allow the O.A and direct the respondents to grant family pension to the applicant w.e.f. 11.6.86 and to pay all arrears with interest @ 12% per annum. The whole exercise must be completed within 3 months from the date of receipt of a copy of this order.

13. No order as to costs.



(S.K. Agarwal)

Member (J).