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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.211/95

Date of order: 13.7.1998

Smt.Chandu Devi, W/o late Sh.Bhagirath Prasad, aged about 31 years, R/o Regar Basti, Behind GPF Police Station, Post Katherapa, Via, Phulera, Distt.Jaipur.

...Applicant.

1. Union of India through General Manager, Western Railway Churchgate, Bombay.
2. The Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant.

Mr.Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr.Ratan Prakash, Judicial Member
PER HON'BLE MR.RATAN PRAKASH, JUDICIAL MEMBER.

Applicant herein Smt Chandu Devi has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to grant her family pension and release other dues of her deceased husband as due to him, as per rules.

2. The facts which are not in dispute are that the husband of the applicant Shri Bhagirath Prasad was initially appointed on the post of Hot Weather Waterman on 7.6.81 under Jaipur Division. He was granted temporary status w.e.f. 29.5.1987.

3. It is the case of the applicant that while her husband was working on the post of Pointsman at Datarra Railway Station, on 23.8.92 he was dashed by 5 UP Train coming from Phulera and died on the spot. She was given compassionate appointment on 10.3.93 against Group D post on casual basis and joined on the said post vide Annx.A3 dated 10.3.93. It is the

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case of the applicant that she was told that her family pension case is in process and it would take some time and after that ~~he~~ was informed that no family pension is admissible to her since her husband was not absorbed on a regular post and that he was only a temporary post holder. Having failed to get the family pension, she has approached this Tribunal.

4. The respondents have opposed this O.A by filing a written reply. The stand of the respondents is that firstly the application is highly belated as the husband of the applicant had died in the year 1992 and the claim for family pension was made in the year 1995. Secondly, it has been averred that the deceased husband of the applicant being a temporary status holder, she is not entitled to family pension in view of para 2605 of the IREM because her husband was not absorbed on a regular post.

5. I heard the learned counsel for the parties and have perused the records.

6. The plea of delay having been not pressed, the only point for consideration in this O.A is: whether the applicant is entitled to claim family pension as her deceased husband was only a temporary status holder at the time of his death.

7. The law with regard to payment of family pension to the widow of a casual labour who has not been regularised has been finally settled by Hon'ble the Supreme Court in the case of Union of India & Ors. Vs. Babia Bikaner etc, JT 1997(6) SC 95. Hon'ble the Supreme Court in this case held that the widow of a casual labour who had not been regularised till his death was not entitled to his retirement benefit including family pension. Hon'ble the Supreme Court while laying down the aforesaid principle of law has distinguished its decision in Prabhavati Devi Vs. Union of India (1996) 7 SCC 27 and has followed its decision in Union of India Vs. Sukanti & Anr, SLP(C)No.3341/96 decided on 30th July, 1996.

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8. In view of the settled position of law on this aspect by Hon'ble the Supreme Court and finding that the deceased husband of the applicant was only a temporary status holder till his death and was not absorbed in a regular post; the applicant is not entitled to any family pension.

9. In view of the aforesaid reasons, the O.A has no merit. It is dismissed with no order as to costs.



(Ratan Prakash)

Judicial Member.