

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

OA No.501/95

Date of order: 27.7.1998

Smt. Chhoti 'B' W/o late Shri Habib Ahmed aged about 35 years resident of C/o Abdul Hafiz Khan, Sugar Mill gate, Keshav Rai Patan, Distt. Bundi (Raj.)

.. Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Ratlam Division, Ratlam.
3. The Executive Engineer (S&C), Western Railway, Ahmedabad.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant Smt. Chhoti 'B', widow of late Shri Habib Ahmed, has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek a direction against the respondents to grant her family pension and other dues of her deceased husband from the due date as per rules alongwith arrears.

2. Facts which are undisputed are that the deceased Shri Habib Ahmed, husband of the applicant, was initially appointed on 18.1.1982 as a casual Driver in the office of Executive Engineer (S&C), Ratlam Western Railway (now at Ahmedabad Western Railway). He was conferred temporary status on 2.9.1984. He was medically examined and found fit in 1986 and continued to work as temporary



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status holder Driver till 26.2.1992 when he expired. The applicant made a representation to respondent No.3, the Executive Engineer (SSC), Western Railway, Ahmedabad for release of family pension and other dues of her deceased husband followed by a reminder dated 10.1.1995. Having heard nothing, she has been compelled to file this application to claim the aforesaid reliefs.

3. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed. The stand of the respondents has been that Shri Habib Ahmed, the deceased husband of the applicant, being only a temporary status holder till he expired and was not regularised and absorbed in a regular cadre, the applicant is not entitled to any benefits which are alleged to be admissible to a temporary railway servant. Their action in denying the family pension to the applicant has been valid and there is no violation of any constitutional provision.

4. I heard the learned counsel for the parties and have examined the record in great detail.

5. The only point for determination in this OA is whether the applicant who is widow of Shri Habib Ahmed, deceased railway employee of the respondent Department who died as a temporary status holder is entitled to family pension.

6. This matter does not now remain controversial. It has been settled by Hon'ble the Supreme Court in the case of Union of India vs. Fabiya Bikaner reported in JT ⁽⁶⁾ 1997 (SC) 19 wherein Hon'ble the Supreme Court has laid down that the widow of a Casual Labour who ~~has~~₂ not been regularised till death is not entitled to retiral benefits including family pension. While laying down this rule, Hon'ble the Supreme Court has followed its decision in Union of India Vs. Sukhanti and Anr. SLP (C) No. 3341/93 decided on 30.7.1996

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and had distinguished its decision in *Prathya Devi Vs. Union of India*, (1996) 7 SCC 27.

7. In view of this settled position of law the applicant is not entitled to any family pension on account of the death of her deceased husband Shri Habib Ahmed who died on 26.2.1992 as a temporary status holder before he could be regularised or absorbed in regular cadre. Consequently the ~~issued~~ is decided in the negative and is answered accordingly.

8. The OA thus has no merit and, therefore, it is dismissed with no order as to costs.



(Ratan Prakash)

Judicial Member