

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR. (9)

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Date of Decision: 30.4.1998

CA 441/96

Smt. Mooli Bai w/o Late Shri Baku Singh r/o Mahadev Singhi's House, Mal Godown,  
Sunder Nagar, Kota.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate,  
Bombay.
2. Divisional Railway Manager, Western Railway, Kota.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

For the Applicant

... Mr. R.N. Mathur

For the Respondents

... Mr. Tej Prakash Sharma

ORDER

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Smt. Mooli Bai, in this application under Section 19 of the Administrative Tribunals Act, 1985, has mainly prayed for a direction to the respondents to pay family pension to her as also for a direction for payment of insurance amount.

2. Heard the learned counsel for the parties.

3. Applicant's case is that she is working as a temporary status worker in the Kota Division of the Western Railway. She is presently working under the Project Inspector, Western Railway, Kota. She was given appointment on compassionate grounds for the reason that her husband, Late Shri Babu Singh s/o Shri Sardar, had expired in an accident during service while he was on duty. The husband of the applicant was appointed on 29.9.75 and he had expired on 24.2.94. Applicant's husband had rendered service from 29.9.75 to 24.2.94. The contention of the applicant is that her husband was a permanent employee. However, the respondents paid an amount of gratuity and provident fund but they have not paid the amount of insurance and the family pension to her. The same was denied because the applicant's husband Babu Singh s/o Shri Sardar was not regularised on the post of Sarang. The contention of the applicant is that a widow of a temporary status holder employee is also entitled to get family pension in case her husband had rendered qualifying service exceeding one year. On the other hand, the respondents have stated that since the deceased Babu Singh was not permanent or regular employee of the Railway, the family of the deceased is not entitled to get any benefit

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under the Family Pension Scheme. It is also stated that merely working for a number of years does not create any right in the employee for grant of pension until and unless his services are regularised by the administration. The deceased employee was getting all the benefits but his services were not regularised. The deceased was only a casual Sarang and although he was granted temporary status but he was not screened. His services were not regularised. The payment of gratuity and provident fund has been made to the applicant and since she is not entitled to get family pension, the same could not be granted to her after the death of her husband. No subscription was deducted from the deceased towards any Insurance Scheme during his life time.

4. The learned counsel for the respondents relied on JT 1997 (6) SC 95, Union of India and others v. Rabia Bikaner etc., wherein their Lordships of Hon'ble the Supreme Court observed as follows :-

"4. It is contended by the learned counsel for the respondent-widows by the learned counsel that under paragraph 2511 - "Rights and Privileges admissible to the casual labourers who are treated as temporary after completion of six months continuous service" - of the Railway Establishment Manual, they are entitled to family pension. We find it difficult to give acceptance to the contention. It is seen that every casual labourer employed in the railway administration for six months is entitled to temporary status. Thereafter, they will be empanelled. After empanelment, they are required to be screened by the competent authority and as and when vacancies for temporary posts in the regular establishment are available, they should be appointed in the order of merit after screening. On their appointment, they are also required to put in minimum service of one year in the temporary post. In view of the above position, if any of those employees who had put in the required minimum service of one year, that too after the appointment to the temporary post, died while in service, his widow would be eligible to pension under Family Pension Scheme, 1964. In all these cases, though some of them have been screened, yet appointments were not given since the temporary posts obviously were not available or in some cases they were not even eligible for screening because the posts become available after the death. Under these circumstances, the respondent-widows are not eligible to the family pension benefits."

In view of the decision of Hon'ble the Supreme Court in the case cited supra, this application fails. The OA is, therefore, dismissed. No order as to costs.

*Gopal Krishna*  
(GOPAL KRISHNA)  
VICE CHAIRMAN