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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.565/96

Date of order: 21.7.1998

Smt.Kamala Devi, W/o late Shri Ramesh, aged about 42 years, B/o Ram Gang New Basti, House No.81/26, Ajmer.

...Applicant.

Vs.

1. Union of India through General Manager, Western Railway Churchgate, Bombay.
2. Divisional Regional Manager (Establishment), Western Railway, Ajmer Division, Ajmer.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant.

Mr.K.S.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.Patan Prakash, Judicial Member.

PER HON'BLE MR.PATAN PRAKASH, JUDICIAL MEMBER.

Applicant herein Smt.Kamala Devi, widow of late Shri Ramesh, has approached this Tribunal under Sec.19 of the Administrative Tribunals Act, 1985, to direct the respondents to grant her family pension and release other dues of her husband from due date as per rules and the amount of arrears alongwith reasonable rate of interest.

2. The facts which are not in dispute between the parties are that late Shri Ramesh, the husband of the applicant was appointed as casual labour in the respondent Railway w.e.f. 5.10.72 and was granted temporary status w.e.f. 12.10.74. It is the case of the applicant that her husband died on 16.3.78 due to accident while he was on duty. She requested the respondent authorities to grant her family pension on the ground that although her husband was a temporary status holder and he was not regularized, it is within the powers of the respondents to regularise him and release the consequential family pension to her. Her representation made on 20.9.96 (Annx.A2) having gone

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futile. She has approached this Tribunal to claim the aforesaid relief.

3. The respondents have opposed this application by filing their written reply to which no rejoinder has been filed. It is the stand of the respondents that there is no merit in this O.A because it is highly belated as the cause of action having arisen on 16.3.78 when the applicant's husband expired whereas the applicant has ~~been~~³ filed this application after a period of more than 18 years, i.e. in the year 1996. On merits, it is asserted that the temporary status holder of a Railway servants are not entitled to family pension and that it is only after their regularisation against a regular post, ^{than 2} such benefit could be extended. Therefore, the applicant is not entitled to claim any relief and this application deserves rejection.

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

5. Before examining this issue, on the plea raised by the respondents regarding delay in filing this application, it is suffice to mention that since the O.A has already been admitted, it would be futile to reject this application simply on the ground of limitation. The other 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.

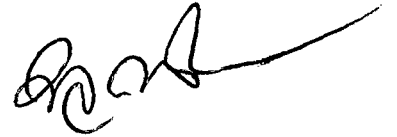
6. The law with regard to payment of family pension to the widow of a casual labour who has not been regularised has been finally settled by Hon'ble the Supreme Court in the case of Union of India & Ors. Vs. Pabia Bikaner etc, JT 1997(6) SC 95. Hon'ble the Supreme Court in this case ^{has} held that the widow of a casual labour who ~~has~~^{has} not been regularised till his death ^{was} ~~was~~² not entitled to ~~his~~² retirement benefit including family pension. Hon'ble the Supreme Court while laying down the

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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.3341/93 decided on 30th July, 1996.

7. 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.

8. 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.