

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 19.6.2000

OA 19/98

Heera Lal & Prem Chand, both sons of Shri Bhura Ram, r/o Village Dodwadiyon Ka Bas, Post Sanodiya, Via Phulera, Distt. Jaipur.

... Applicants

Versus

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

... Respondents

CORAM:

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

For the Applicant

... Mr.P.P.Mathur, proxy counsel for
Mr.Vinod Goyal

For the Respondents

... Mr.Nazeemuddin Kazi, proxy counsel
for Mr.S.S.Hasan

O R D E R

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

In this OA filed u/s 19 of the Administrative Tribunals Act, the applicant makes prayer; i) to direct the respondents to pay the amount of Provident Fund, Gratuity and Insurance with interest @ 18% p.a., ii) to direct the respondents to give appointment to the applicant No.2 on compassionate grounds and to pay all the due amount of the father of the applicants to the applicants.

2. The facts of this case, as stated by the applicants, are that applicants earlier submitted an OA No.361/95 before this Tribunal, which was disposed of by an order dated 12.3.97. Aggrieved by the order passed in OA 361/95, the applicants have again come up before this Tribunal for the relief as claimed by them in this OA. The main grievance of the applicants is that Shri Bhura, father of the applicants, disappeared from Phulera Junction in the year 1975. The applicants were minor at that time and mother of the applicants had deserted the father of the applicants prior to the year 1975. The applicants were brought up by their grandmother, who also expired in the year 1984 but thereafter the applicants are facing extremely hard days. It is also stated that the respondents were deducting Provident Fund and Insurance from the salary of the father of the applicants but the same has not been paid so far. Therefore, the applicants are entitled to Provident Fund, Insurance and Gratuity amount due to the father of the

applicants.

3. Reply was filed. In the reply it is admitted that father of the applicants, Shri Bhura, disappeared in the year 1975 and he never returned back. Therefore, he was removed from service on 8.6.78. It is also stated in the reply that Shri Bhura was having PF Account No.1674105 and the balance amount of Provident Fund Rs.643/- was sent through cheque at the residential address of Shri Bhura on 26.7.78 but the PF ~~Ledger~~ maintained by the respondent railway shows that the payment of Rs.643/- was made to the said employee. An additional affidavit was also filed by the respondents which is on record.

4. Heard the learned counsel for the parties and perused the whole record.

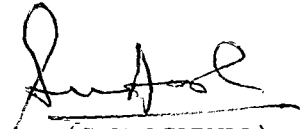
5. As the father of the applicants, admittedly, disappeared in the year 1975 from Phulera Junction and the father of the applicants, Shri Bhura, was removed from service in the year 1978, therefore, the applicants are not entitled for appointment on compassionate grounds as the father of the applicants was removed from the service. The order of removal was never challenged in the lifetime of the employee himself. Therefore, the order of removal has become final and in view of the removal of Shri Bhura from service, the applicants are not entitled to any appointment on compassionate grounds.

6. As regards the other prayer of the applicants, it is admitted by the respondents that Rs.643/- were in credit in the Provident Fund Account of the employee Shri Bhura. In the reply it has also been stated that this amount was sent at the residential address of Shri Bhura on 26.7.78 but who has received this amount, it has not been made clear. It has also not made very clear whether this amount was received by the employee himself or any other family member of the employee and on what date. The learned counsel for the respondents was directed to produce the proof of this fact but no proof was furnished by the respondents before this Tribunal. Therefore, it cannot be concluded that Rs.643/-, which was in the credit of Shri Bhura, was paid by the respondent to Shri Bhura or any other family member of Shri Bhura. The respondents can easily verify this fact from the concerned Bank whether this amount was paid to Shri Bhura or any other family member of Shri Bhura. But any how, this amount should have been paid to Shri Bhura or, in his absence, any other representative of Shri Bhura, who was legally entitled to receive the said amount.

7. I, therefore, allow this OA in part and direct the respondents that the

respondents shall verify the fact whether the amount credited in the Provident Fund Account of Shri Bhura was actually paid to Shri Bhura or any other member of his family. In case the same has not been paid to Shri Bhura or any other member of his family, the respondents shall pay the same to the applicants within three months from the date of receipt of a copy of this order alongwith interest @ 12% per annum.

8. No order as to costs.



(S.K. AGARWAL)

JUDICIAL MEMBER