

Date of Order: 06.11.2000

OA 437/2000

Smt. Sushila Devi wife of Late Shri Bhanwaria (The Ex. Platform Porter, Railway Station, Bijaynagar Distt. Ajmer) now residing Village Kanai Post, Kanai District, Gurgaon (Haryana).

.... Applicant.

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Ratlam (M.P.).

.... Respondents

Mr. N.K. Gautam, Counsel for the applicant.

CORAM:

Hon'ble Mr. S.K. Agarwal, Member (Judicial).
Hon'ble Mr. Gopal Singh, Member (Administrative).

ORDER

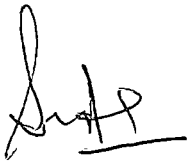
(PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL))

The applicant who is widow of Shri Bhanwaria, Ex. Platform Porter, Railway Station, Bijaynagar, Distt. Ajmer who died on 13.3.99 has challenged removal of her husband, Shri Bhanwaria vide order dated 31.8.98 at Annexure A-1 and rejection of appeal vide order dated 3.9.98 at Annexure A-3 and to direct the respondents to pay salary/wages to the applicant from 06.6.98 to 13.3.99 and to make payment of retiral dues such as gratuity including family pension.

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2. Heard the learned counsel for the applicant on admission.
3. The main contention of the learned counsel for the applicant in this case has been that order of removal of the applicant's husband and order of Appellate Authority, passed in appeal, by the Appellate Authority are ex-facie illegal and are, therefore, liable to quashed. The applicant is thereby entitled to salary/wages and pensionary benefits including family pension for the period as mentioned above.
4. On perusal of Annexures A-1 and A-3, it appears that applicant's husband, Shri Bhanwaria, was removed from service after holding an inquiry and his appeal was also dismissed by the Appellate Authority during his life time. It is also an admitted fact that Shri Bhanwaria, husband of the applicant, died on 13.3.99 and this application has been filed by the widow of the deceased, Shri Bhanwaria.
5. In Vidhata vs. Union of India & Others, ATJ (2) 1998 Page 506, Full Bench of CAT, Mumbai has decided in OA 159/93 on 30.4.98 that legal heirs of the deceased employee are not competent to file application under section 19 of the Administrative Tribunal's Act. In view of the Full Bench decision of CAT, Mumbai Bench and facts and circumstances of this case, applicant is not competent to file this application under Section 19 of the Administrative Tribunal's Act and as such the application filed by the applicant is not maintainable.
6. The learned counsel for the applicant has referred the decision given by this Tribunal in OA 505/99 decided on 13.7.2000 in Smt. Sumitra Devi Vs. Union of India & Others and Judgement of Hon'ble Rajasthan High Court in Babulal vs. Union of India & Others reported in RLR(1) Page 631. We have given our utmost



considerations to these citations but in the facts the circumstances of this case, these two citations are distinguishable and do not help the applicant in anyway.

7. In view of the settled legal position, this application filed under Section 19 of the Administrative Tribunal's Act is dismissed in limine as not maintainable.

Gopal Singh

(GOPAL SINGH)
MEMBER (A)

S.K. Agarwal

(S.K. AGARWAL)
MEMBER (J)

