

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 12.04.2004

Original Application No.536/2003.

Smt. Chanda Devi W/o Late Shri Nawal Singh, aged about 39 years R/o T/115D, Loco Colony, Jaipur.

... Applicant.

v e r s u s

1. The General Manager, North West Railway, G.M. Office, Near Jaipur Railway Station, Jaipur.
2. The Divisional Railway Manager, North West Railway, D.R.M. Office, Jaipur.
3. The Sr. Divisional Mechanical Engineer, North West Railway, D.R.M. Office, Jaipur.
4. The Assistant Engineer, North West Railway, Phulera, Dist. Jaipur.
5. The Railway Track Inspector (R), North West Railway, Phulera Dist. Jaipur.

... Respondents.

Mr. P. K. Sharma counsel for the applicant.
Mr. Tej Prakash Sharma counsel for the respondents.

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Hon'ble Mr. J. K. Kaushik, Judicial Member.
Hon'ble Mr. M. K. Misra, Administrative Member.
: O R D E R (ORAL) :

This OA NO.536/2003 has been filed by Smt. Chanda Devi W/o Late Shri Nawal Singh and has prayed for the following reliefs :-

(i) To consider the above named Shri Nawal Singh husband of the Applicant as deemed confirmed employee from the date when his junior was regularized or from the date i.e. 23.10.1989 when he had completed 10 years of service from initial date of his appointment.

(ii) to grant the applicant Family Pension from the date of the death of her above named husband Shri Nawal Singh i.e. 31.5.1990 with all consequential benefits including interest thereupon and fixation and revision which may have taken place from time to time.

(iii) Any other order which this Hon'ble Tribunal deems just and proper and expedient in the facts and circumstances of the case may be passed ; and

(iv) Costs of the original application may be awarded in favour of the applicant."



5. About the belated OA, as alleged by the respondents, we are of the view that the matter relates to the grant of family pension and pension matter is a recurring cause of action. Therefore, the law of limitation is not attracted. Further we find that there are sufficient and good reasons for condonation of delay and the OA is allowed and we proceed to decide the matter on merits.

6. We have considered the rival averments of the learned counsel for both the parties. In this connection, the verdict of the Hon'ble Supreme Court of three Judges Bench in the case of Ram Kumar vs. Union of India, 1996 (1) SLJ 116 (SC), fully covers this issue and is applicable in this case. The Hon'ble Supreme Court in the above judgement also considered its own decision in the earlier case of Shri Ram Kumar vs. Union of India and Ors. AIR 1988 SC 390 and in the case of Union of India and Ors. vs. Rabia Bikaner and Ors. 1997 SCC (L&S) 1524. Both the above quoted cases were considered by the two judges Bench of the Supreme Court whereas the later decision in the case of Ram Kumar vs. Union of India 1996 (1) SLJ 116 (SC) was given by the three judges Bench of the Supreme Court. In this case, the Hon'ble Supreme Court held that the Railway casual worker attaining temporary status should be entitled for pensionary benefits as per orders issued by the Railway Board may be given that benefit. Learned counsel for the respondents in the above case also gave positive commitment to the Hon'ble Supreme Court that the directions of the Hon'ble Supreme Court would be complied with by the Railway Board in toto.

7. Thus, it is observed that learned counsel for the respondents is taking support of the decision of Rabia's case (supra) is of no consequence in the light of the latest decision of the three Judges Bench of the Hon'ble Supreme Court in the case of Ram Kumar (supra). It is undisputed fact that the deceased husband of the applicant was giving temporary status on 05.11.1985. It is also undisputed fact that the deceased husband of the applicant joined Western Railway on 24.11.1979. Accordingly, we are of the firm opinion that though an employee having temporary status who joined as casual labour earlier in the railway would be entitled to the pension in light of the commitment made by the learned counsel for the respondents before the Supreme Court in the case of Ram Kumar vs. Union of India (supra) and since once the normal pension is allowed to a temporary status casual labourer, his widow would definitely be entitled for family pension.

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8. Paying regard to the provisions and position of the law, the foregoing discussions made, the law laid down by the Apex Court and for the reasons recorded herein above we find merit in this O.A. and the same deserves to be accepted. The O.A. is allowed. The respondents are directed to settle family pension of the applicant within three months from the date of receipt of a copy of this order. In case the family pensions is not paid within three months the respondents shall be liable to pay interest at the rate of 8% per annum after expiry of the said period of three months. No order as to costs.

MEMBER (A)

MEMEBR (J)