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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH
CIRCUIT COURT SITTING AT BILASPUR

Original Application No. 409 of 2006

Bilaspur, this the 29th day of June, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Shri A.K. Gaur, Judicial Member

Ku. Urmila Bai, D/o. Late Shri Bidbar,
Aged about 42 years, Unemployed and
Unmarried, Residing at : Near to Railway
Quarter No. 721/2, Railway Loco Colony,
Bilaspur (CG).

..... **Applicant**

(By Advocate – Shri B.P. Rao)

V E R S U S

1. Union of India,
Through : The General Manager,
South East Central Railway,
Bilaspur Zone, G.M. Office,
PO : Bilaspur, Tehsil & District :
Bilaspur (CG).

2. The Divisional Railway Manager,
South East Central Railway,
Raipur Division, Raipur,
Tehsil & District : Raipur (CG).

3. The Divisional Personnel Officer,
South East Central Railway,
Raipur Division, Raipur,
Tehsil & District : Raipur (CG).

..... **Respondents**

O R D E R (Oral)

By A.K. Gaur, Judicial Member –

In this Original Application the applicant has claimed that he may be given payment of life time arrears of family pension which ought to have been paid to her mother with effect from 9.7.1997 to 3.12.2004 with 12% interest.

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2. It is averred that the father of the applicant was a Railway employee who died in the year 1992 leaving behind him his wife, one son and three daughters. The mother of the applicant had submitted an application for family pension and subsequently she died on 3.12.2004. Thereafter, the applicant being the dependent unmarried sister of her deceased brother and legal heir of her deceased mother submitted an application on 15.12.2004 praying for payment of life time arrears of family pension which ought to have been paid to her mother from 9.7.1997 to 3.12.2004. But the respondents did not pay any heed to the same. The applicant had filed an Original Application before this Tribunal bearing OA No. 278/2005 and as per the directions of the Tribunal dated 18.3.2005, (Annexure A-6), the respondent No. 3 has passed the order dated 30.5.2005, and rejected the applicant's claim. Being aggrieved by the said reply the applicant preferred the present Original Application in this Tribunal. It is contended on behalf of the applicant that she is facing acute financial problems. She has no means for her livelihood, as all earning members of her family i.e. her father, brother and mother had already passed away.

3. We ~~have~~^{have} heard Mr. Rao, learned counsel for the applicant ~~for~~^{and} ~~representative~~^{and}, and perused the order dated 30.5.2005, passed by the competent authority on the representation moved by the applicant. The competent authority while disposing of the representation of the applicant in pursuance of the order and direction of the Tribunal dated 18th March, 2005 has clearly observed that as the brother of the applicant was a substitute khalasi, and died as such, (without regularization due to his unauthorized absence), he was entitled for payment of provident fund only. The competent authority has also specifically observed, that as per ext^{ant} rules the claim of the applicant for payment of life time arrears of family pension from 9.7.1997 to 3.12.2004 is not tenable in law.

4. In view of the decision reported in 1997 SCC (L&S) 1524, Union of India & Ors. Vs. Rabia Bikaner & Ors., the applicant has no case at all for grant of family pension. It has been held by the Hon'ble Supreme Court that the heirs and legal representatives of the casual employee whose service have been not been screened or regularized are not entitled to the benefit of family pension. Learned counsel for the applicant has relied upon the decision of the Tribunal reported in 1993 (25) ATC 254 and the decision given by the Hon'ble Supreme Court reported in 1996 SCC (L&S) 369 Prabhavati Devi Vs. UOI and ors. In our considered view the ratio of the aforesaid cases are quite different from the facts and law involved in the present case. Apart from this the decision of the Hon'ble Supreme Court in the case of Rabia Bikaner (supra) is a later decision and the same shall prevail.

5. In view of our discussion made above the Original Application has no merits and the same deserves to be dismissed at the admission stage itself. Accordingly, the same is dismissed.


(A.K. Gaur)
Judicial Member


(Dr. G.C. Srivastava)
Vice Chairman

"SA"

पुर्वांक सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अद्योषित:-

(1) सचिव, उच्च न्यायालय नॉर एसोसिएशन, जबलपुर

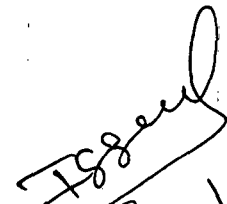
(2) आवेदक श्री/श्रीमती/कु.....के काउंसल

(3) प्रत्येकी श्री/श्रीमती/कु.....के काउंसल

(4) न्यायालय, के.ए.अ., जबलपुर न्यायपीठ

सचना एवं आवश्यक कार्यवाही हेतु

उभे रजिस्ट्रार


20/7/06