

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 578 of 2002

Indore, this the 14th day of November, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Smt. Abida Widow of Babookhan
Ex-gangman under C.P.W.9 Mahidpur
Road, aged 40 yrs. R/o. Mewati
Mohalla Alot, At present Nagda
Rly. Station Distt. Ujjain.

... Applicant

(By Advocate - Shri A.N. Bhatt)

V e r s u s

Union of India & Others

represented by -

1. General Manager, Westery
Railway, Head Quarter Office
Churchgate, Mumbai.

2. Divisional Rail Manager,
Divisional Office, Kota.

... Respondents

(By Advocate - Shri Prasana Bhatnagar on behalf of Shri
Anand Pathak)

O R D E R

By G. Shanthappa, Judicial Member -

The applicant has filed the above Original Application seeking relief for direction to the respondents to pay the family pension, all settlement dues including the pensionary benefits and other consequential benefits. The further relief is that all arrears and other allied due benefits from the date 10.11.1984 when the husband of the applicant died while on duty be also be allowed with interest.

2. The case of the applicant is that the husband of the applicant was appointed on 22.05.1981 and died on 10.11.84. He had completed the service for a period of three years.



Hence, the applicant is entitled for family pension. In support of her case, she has cited three judgments of the Central Administrative Tribunal of different benches and once judgment of the Hon'ble Supreme Court. The applicant has filed this Original Application claiming family pension under Rule 75 of Railway Services (Pension) Rules, 1993. The applicant has submitted a representation dated 30.11.2001 vide Annexure A-8A for grant of family pension. The respondents have not yet considered the same and is pending with the respondents.

3. Per contra the respondents have filed reply denying the allegations and averments made in the Original Application. The specific contentions of the respondents are that the husband of the applicant was a casual labourer with the respondents. He was never regularised in the said Department and family pension and other pensionary benefits are only available to the employees who are regular in service. As the applicant's husband was not regularised, therefore the applicant is not entitled for receiving any ^{as} benefit/alleged by her after the death of her husband. In support of their case, they have produced the statement of casual labourers who are working under the respondents and serial No. 232 belongs to applicant's husband. Hence the rule 75 of the Railway Services (Pension) Rules, as referred by the applicant is not applicable to the case of the applicant. The family pension scheme for Railway services are applicable to only those employees who are regular in service. Hence the applicant is not entitled for any of the reliefs as prayed for.

4. After hearing the advocate for the applicant and the advocate for the respondents, after perusal of the pleadings and documents, we have decided the case on merits.

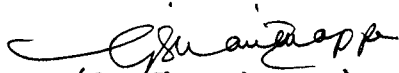
labour. His services were not regularised. Hence the Rule 75 of Family Pension Scheme for Railway servants, 1964 is not applicable to the husband of the applicant. Hence the applicant is not entitled for family pension.

6. The applicant has referred several judgments in this point. In Smt. Nehni Bai Vs. Union of India & Ors. reported in 1994(3)(CAT)Jaipur 523, Somwari Devi Vs. Union of India and another reported in 2001(1) ASLJ 392 and in Prabhavati Devi Vs. Union of India and others reported in ~~24~~ 1996 SCC (L&S) 369 the Hon'ble Supreme Court held that Temporary-Railways-Acquisition of temporary status-Pension-Family pension-entitlement to-casual worker in Railways acquiring the status of a 'substitute' and, after continuing as such for over a year, dying-consequences-on completing 6 months' continuous service, held, he became a temporary Railway servant and when he died after one year's continuous service his widow and children became entitled to family pension - Railway Establishment Manual, Rr. 2315, 2318 and 2311(3)(b)- Manual of Railway Pension Rules, para 801. According to the judgments referred to above the applicant is entitled for pay of family pension. But however in a subsequent judgment of the Hon'ble Supreme Court in Union of India and others Vs. Rabia Bikaner and others reported in AIR 1997 SC 2843, the Apex Court held that the widow of a casual labour with a temporary status, who has not been absorbed in a regular establishment of the Railways after screening, is not entitled for family pension.

7. Considering the facts and records of the case and in view of the law laid down by the Hon'ble Supreme Court in Rabia Bikaner's case (supra), the applicant is not eligible for family pension and other consequential benefits.

8. Accordingly, the Original Application is dismissed.

No order as to costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन एवं ओवरलैप दि.....

पृष्ठ संख्या : ०

(१) अधिवक्ता दि.....

(२) अधिवक्ता दि.....

(३) अधिवक्ता दि.....

(४) अधिवक्ता दि.....

सूचना एवं आसश्यक कार्यको हेतु

AN Mulla, Adm.
A. Pathak, Adm.
END


18-11-03

Issued
18-11.