

Central Administrative Tribunal
Circuit Bench at Indore

OA No.196/1998

this the 19th day of February, 2003 .

Hon'ble Justice N.N.Singh, Vice-Chairman (J)
Hon'ble Shri Govindan S.Tampi, Member(A)

Vasanbai widow of late Prabhulal,
Ex.Gangman, Vikramgarh,
Alot, residing at Premila Gang,
Alot.

(By Advocate: Shri A.N.Bhatt)

...Applicant

Versus

1. General Manager,
Western Railway,
Mumbai.

2. The Divisional Rail Manager,
Western Railway,
Kota.

(By Advocate: Shri Y.I.Mehta)

...Respondents.

ORDER(ORAL)

By Shri Govindan S.Tampi Member(A).

Relief being claimed by the applicant Smt.
Vasanbai in this OA are as below:-

"Under the circumstances and facts of the cases of the cases referred to in above, the applicant most humbly prays for the following relief:-

8.1 The letter No.E/E/789/90/1/52 dated 22.3.94 issued by the Respondent No.2 may kindly be quashed.

8.2 The Respondents may kindly be directed to treat late Prabhulal pensionable regular employee before his death on 25.10.89.

8.3 The Respondents may kindly be directed to grant applicant family pension from 25.10.89.

8.4 All arrears and other allowances due on pension may kindly be ordered to pay to the applicant.

8.5 All other consequential benefits may kindly be allowed.

8.6 Interest on delayed payment from 26.10.89 till the payment is arranged may kindly be allowed.

(2)

8.7 Any other benefit as deemed fit to this Hon'ble Tribunal may kindly be granted.

8.8 Cost of this case may be allowed.

2. Heard S/Shri A.N.Bhatt and Y.I.Mehta, learned counsel for the applicant and the respondents.

3. Applicant is the widow of Prabhulal who was engaged as a Gangman since 21.12.1980 under Permanent Way Inspector, Western Railway Vikramgarh Alot. He was called for screening for regularisation on 11.2.1988 and empanelled but due to the inaction of the respondents' order were not issued, while a junior was regularised w.e.f. 16.1.1989. Prabhulal died on 25.10.1989, ~~by~~^{by} which time he had been with the respondents for ten years and could not have been treated as a non-railway employee merely because formal orders were not issued in his case. Grounds raised in this OA are that (i) the family of a regular employee was entitled for family pension; (ii) inaction of the respondents should not come in the way of the applicant's right; (iii) the applicant was entitled for family pension in terms of Rule 32 of Railway Pension Rules and (iv) a number of decisions were in his favour. All the above pleas were reiterated by Shri A.N.Bhat, learned counsel for the applicant, who also sought to rely upon a few decisions which he felt was in his favour.

4. On behalf of the respondents it is submitted that the OA filed on 26.1.1998, for a cause relating to 1994, was hit by limitation. Applicant's husband was screened on 11.2.1988 but has not been regularised through -- he had been granted temporary status and had not put in

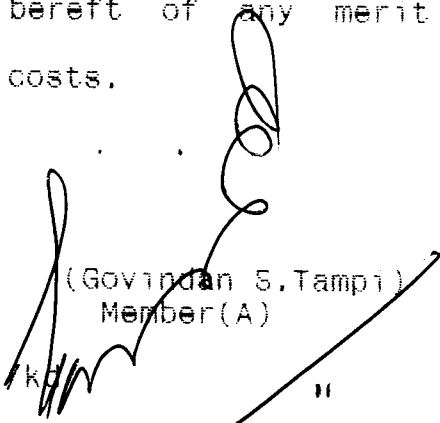
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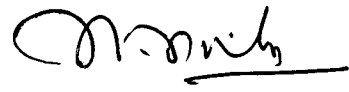
one year of regular service at the time of his death on 25.10.1989. Therefore, the applicant was not entitled for the family pension. Respondents seek to rely upon the decision of the Hon'ble Apex Court in the case of UOI and Ors. Vs. Rabia Bikaner (Civil Appeal No.4374-4378) decided on 7.7.1997.

5. We have carefully considered the matter. The point for determination is whether the applicant is entitled for grant of family pension, following the death of his husband in harness. The preliminary objection of limitation raised by the respondents, is being repelled as pension would also be a continuous cause of action. However, on merit the applicant does not have a case. The applicant's husband was a casual worker with temporary status. he was screened for regularisation on 11.2.1988, but had not been regularised till he expired on 25.10.1989. Family pension, in terms of Railway Pension Rules, can be granted only to the families of those who have completed one year of continuous service after regularisation. The applicant's husband was not regularised and had therefore not completed the requisite period of one year's regular service when he dies. Even if for arguments' sake it was taken that the applicant's husband stood regularised w.e.f. 15.1.1989, the day on which Kanhaiya Deva described as his junior was regularised, he would not have completed one year of continuous service at the time of his death on 25.10.1989. That being the case the applicant did not become entitled to family pension. Decision relied upon by the applicant including that the Hon'ble Supreme Court in Prabhavati Devi Vs. Union of India & Ors.[1996 SCC (L&S)

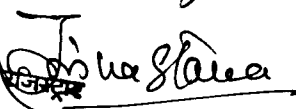
369)] and Shanti Devi Vs. UOI & Ors. (OA 419/2000) decided by the Jaipur Bench of the Tribunal on 29.8.2001), do not come to the assistant of the applicant, as her husband had not completed one year of regular service at the time of his death. And the decision of the Hon'ble Apex Court in UOI & Ors. Vs. Rabia Bikaner (supra) is specific that only the family of a casual labourer, who had put in one year continuous service at the time of his death was entitled for grant of family pension. The applicant's husband not having completed the said period of continuous service at the time of his death, she had not become entitled for family pension. Respondents' action in denying the same, therefore cannot be assailed in law.

6. OA, in the above circumstances, fails being bereft of any merit and is accordingly dismissed. No costs.


 (Govindan S. Tampi)
 Member(A)


 (N.N.Singh)
 Vice-Chairman(J)

पृष्ठकला सं जो/न्या.....जबलपुर, दि.....
 पत्रिकादि: जारी दिनांक:-
 (1) सचिव, जलपुर नगर पंचायत, जबलपुर
 (2) सचिव, जलपुर नगर पंचायत, जबलपुर
 (3) सचिव, जलपुर नगर पंचायत, जबलपुर
 (4) सचिव, जलपुर नगर पंचायत, जबलपुर
 सूचना एवं आवश्यक कार्रवाई हेतु

उप सचिव


A N Bhatt, A/c
 Y I mehta, A/c

Issued
 on 24-3-03
 BS