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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

11.07.2011

OA No. 456/2008 with MA 89/2009

Mr. Nand Kishore, Counsel for applicant.
Mr. Hawa Singh, Counsel for respondents.

MA No. 89/2009

Heard on MA for deleting the name of respondent no. 1, Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi, from the array of respondents.

Having heard the rival submissions of the respective parties, we are of the view that the Union of India is a necessary party. We are not convinced with the submissions advanced on behalf of the respondents. Accordingly, this MA stands dismissed.

OA No. 456/2008

Put up on 04.08.2011.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

K.S. Rathore
(Justice K.S. Rathore)
MEMBER (J)

AHQ

4-8-2011

*Mr. Nand Kishore, Counsel for applicant
Mr. Hawa Singh, Counsel for respondents*

*Heard. The OA is disposed of by a
separate order*

*Anil Kumar
(Anil Kumar)
M (A)*

*K.S. Rathore
(Justice K.S. Rathore)
M (J)*

3000/-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of August, 2011

OA No. 456/2008

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Smt. Jaya K.
w/o Late Shri Kaliyan Chinna Thami,
Ex-Gangman, Sawai Madhopur,
Western Railway under Jaipur Division,
Now North Western Railway, Jaipur,
presently residing at Gang Quarter No.14
at Chaksu Railway Station, District Jaipur.

... Applicant

(By Advocate : Shri Nand Kishore)

Versus

1. Union of India
through Chairman,
Railway Board,
Rail Bhawan,
New Delhi.
2. General Manager,
North Western Railway,
Hasanpura Road,
Jaipur.
3. Divisional Rail Manager,
North Western Railway,
Power House Road,
Jaipur

4. Chief Administrative Officer (Construction)
 North Western Railway,
 Hasanpura Road,
 Jaipur.

.....Respondents

(By Advocate : Shri Hawa Singh)

O R D E R (ORAL)

Brief facts of the case are that husband of the applicant, late Shri Kaliyan Chinna Thami was appointed in the Railways on 21.4.1979 and was working in Construction Unit. Late husband of the applicant was treated as Temporary w.e.f. 1.1.1985 in terms of Railway Board letter dated 1.6.1984 vide respondents letter dated 28.5.1985. Shri Kaliyan Chinna Thami was examined by the Railway Doctor and he was found fit in B-1 medical category as is clear from the medical certificate No. 183838 dated 11.2.1985 (Ann.A/3). Name of the deceased appeared at Sl.No.107 of the employees covered under Ann.A/2, copy of relevant page is Ann.A/4.

2. Further, the deceased husband of the applicant was working at Sawai Madhopur Station of the Western Railway in the Construction Unit under respondent No.2 during the year 1993. He expired on 6.11.1993 at Sawai Madhopur in Railway Colony, as per his Death Certificate dated 13.12.1993 issued by the Nagar Palika of Sawai Madhopur (Ann.A/5). The



respondents have paid own contribution of the Provident Fund to the applicant and have told that the pension of her husband does not become due, due to the reason that the deceased was not regularized in service earlier to his death.

3. It appears that on account of death of her husband, the applicant received contribution of Provident Fund etc. but failed to give date of payment of such amount and it also appears that since payment of Provident Fund made in the year 1993 or 1994 till date of submitting the present OA, the applicant has not applied for pensionary benefits nor represented before the respondents for grant of pensionary benefits.

4. The present OA has been preferred by widow of the deceased employee Shri Kaliyan Chinna Thami on 11.11.2008 on various grounds and also in view of various judgments of the Hon'ble Supreme Court. She also challenged the circular dated 11.9.1994 and prayed that the applicant may be granted pension w.e.f. 7.11.1993.

5. It is not disputed that this is second round of litigation. Earlier the applicant has filed OA No.91/07 and the same was withdrawn with liberty to file fresh OA in order to challenge the Railway Board Circular dated 11.9.94.



6. Without discussing the matter on merit, in our considered view, the ends of justice will be met if we allow the applicant to represent before the respondents raising all sort of legal, just and valid grounds which are taken here in the present OA supported with the judgments rendered by the Hon'ble Supreme Court, and if, such representation is filed by the applicant, we direct the respondents to consider representation of the applicant in the light of the judgment passed by the Hon'ble Supreme Court in the case of Inder Pal Yadav and Ors. vs. Union of India and Ors., reported at 1985 (2) SCC 648 and in the light of the judgment rendered by the Hon'ble Rajasthan High Court, Jaipur Bench in DB Writ Petition No.8180/06 vide its order dated 9.2.2010 in the case of Union of India and Ors. vs. Smt. Uchhav Kanwar which has been upheld by the Hon'ble Supreme Court in SLP (Civil) No.12549/2010 vide order dated 27.8.2002 as well as in the light of the circulars relied upon by the applicant. The representation is required to be considered sympathetically strictly in accordance with provisions of law and also taking into account the fact that husband of the applicant served with the department for a period of about 14 years and decision on the representation shall be communicated to the applicant within a reasonable time. The applicant is given



liberty to approach this Tribunal again by filing substantive OA, if any, adverse order is passed in the matter.

7. The OA stands disposed of in the aforesaid terms with no order as to costs.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K. S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/