

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH,  
JAIPUR.

*Jaipur, the 28<sup>th</sup> day of April, 2011*

**ORIGINAL APPLICATION No.109/2010**

**WITH**

**MISC. APPLICATION No.40/2010**

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Prabha Kumari  
W/o Late Shri Raj Bahadur  
R/o Rang Talao, New Basti,  
Gali No.6, Ward No.13,  
Near Modern School,  
Kota (Raj.).

... Applicant

(By Advocate : Shri S.C.Sethi)

Versus

1. Union of India through  
General Manager,  
West Central Railway,  
Jabalpur.
2. General Manager,  
Western Railway,  
Churchgate,  
Mumbai Central.
3. Divisional Railway Manager,  
West Central Railway,  
Kota Division,  
Kota.
4. Chief Project Manager (Construction),  
Western Railway,  
2<sup>nd</sup> Floor, Station Building,  
Ahmedabad.

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5. Jackson Co-op. Bank of W.Rly,  
Mumbai Branch,  
Kota (Raj.).
6. Railway Employees Co-op. Bank,  
Jaipur (Raj.).

... Respondents

(By Advocate : Shri Anupam Agarwal)

### **ORDER (ORAL)**

The applicant has filed this OA thereby praying for the following relief :

- 8.1 That the applicant is eligible for family pension from 10.4.2007 the date of death of her husband late Shri Raj Bahadur and the respondents No.1to4 be directed to issue sanction order of family pension in favour of the applicant immediately and to pay the arrears of pension and continue to pay the pension as per pension rules.
- 8.2 That respondents No.1to4 be directed to make reimbursement to the applicant of Rs.35168/- spent on purchase of medicine on prescriptions of treating doctor of Maharao Bhim Singh Hospital Kota where the applicant's husband was referred for specialized treatment by Sr.Divisional Medical Officer, WCR, Kota.
- 8.3 That the Divisional Rly. Manager, West Central Railway, Kota Division, and General Manager, West Central Railway, Jabalpur, may be directed to appoint the son of the applicant, Ummed Singh s/o Late Shri Raj Bahadur, on compassionate grounds without loss of further time in any department of Railway in Kota Division because the husband of the applicant was having his lien under DRM-Kota of West Central Railway.
- 8.4 That after adjusting the amount of Rs.81027/- and Rs.60000/- (Total Rs.141027/-). The balance amount of Gratuity, Employees Insurance, Group Insurance, Deposit Link Insurance, Bonus, Leave Encashment etc. be ordered to be paid to the applicant.
- 8.5 That the respondent No.5&6 be directed to pay the amount lying in deposit in CTD account No.62703 and 1486.

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8.6 That any other relief which the Hon'ble Tribunal deem proper in the facts and circumstances of the case may be allowed to the applicant."

2. In brief, facts of the case are that applicant's husband, Shri Raj Bahadur s/o Shri Bhanwar Singh, was initially appointed as Khalasi on 18.1.1988 and was posted under the Dy.Chief Engineer (KCP), Chittorgarh, Kota Division of the Western Railway, wherefrom he was transferred to various places but his lien was maintained and continued with DRM, Kota (Respondent No.2). Details of lien, date of appointment, date of retirement, date of birth, designation, salary, leave, provident fund account etc. have been annexed as Ann.A/2 & A/3 to the OA. Lastly, applicant's husband remained posted under Chief Project Manager (Construction), Ahmedabad, as Peon. During this period he became ill. He was treated at Divisional Railway Hospital, Kota, and was also referred for treatment to Cancer Hospital, Bombay, and Maharao Bhim Singh Hospital, Kota, for treatment and then back to Divisional Hospital of the West Central Railway, Kota, where he died on 10.4.2007. Death Certificates of applicant's husband have been annexed as Ann.A/4 & A/5. Applicant's husband was allotted PF Account No.1572881, which was managed by DAO, Western Railway, Kota Division, Kota (now DAO, West Central Railway; Kota Division, Kota) regularly, irrespective of the place of posting. Applicant's husband also opened CTD A/c No.1486 with Railway Employees Co-operative Bank, Jaipur, where Rs.40/- p.m. were deposited directly by his payment authority (say DDO) under whom he was working. One more CTD A/c No.62703 was opened by him with J.C. Mumbai Central (Jackson Co-operative Bank of Western Railway, Mumbai), branch of which is also situated at Kota, where also the CTD amount was directly deposited by his employer after deducting it from his monthly salary. Applicant's husband was appointed in railway service on 18.1.1988 and was thus eligible for pension and family pension. He was also entitled for free medical treatment and other benefits admissible under the rules of the Railway including gratuity, benefits under

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Employees Insurance Scheme, Group Insurance Scheme, Deposit Link Insurance Scheme, bonus & leave encashment etc.

3. Applicant's husband, Shri Raj Bahadur, was referred for specialized treatment to Maharao Bhim Singh Hospital, Kota, vide letter No.MD/55/S/Kota dated 9.8.2006 (Ann.A/6), because the facility required for treatment was not available at the Railway Hospital, Kota, where no free of charge treatment was given to applicant's husband, though he was entitled for the same, and the applicant had to purchase the medicines prescribed by the doctors of MBS Hospital on different dates, which costed Rs.35168/-. The expenditure incurred on purchase of medicines is to be reimbursed by the respondents as per rules. But, despite repeated requests, nothing has so far been done.

4. After the death of her husband, the applicant moved an application to the respondents on 25.3.2007 to arrange the payment of family pension etc. at an early date. But, nothing has so far been done. Payment had also not been made by respondents No.5&6 of the CTD amount deposited in A/c No.1486 and 62703 by the railway authorities. The applicant has only been paid Rs.81027/- and Rs.60000/- till now, for which no detail has been given. Applicant's husband was a low paid 'Group-D' employee [Peon] of the West Central Railway, who died in harness of cancer at the age below 49 years leaving behind his family in acute distress. The applicant, therefore, applied for appointment of her son on compassionate grounds.

5. In reply to the application for compassionate grounds, the applicant was intimated that the process has been started for appointment on compassionate grounds and that the appointment will be made soon after the sanction of the competent authority is received. Copy of this communication

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has been annexed as Ann.A/1. But, so far, nothing is heard in the matter of appointment.

6. The respondents have filed their reply contesting the claim of the applicant. In their preliminary objections, the respondents have raised two issues viz; (i) that the present OA for plural relief is not maintainable as per Rule-10 of the Procedure Rules, 1987; (ii) that the present OA against respondents No.5&6 is also not maintainable inasmuch as the same being private parties are not amenable to the jurisdiction of this Tribunal.

7. Learned counsel for the respondents further submitted in the reply that as per the record, applicant's husband was granted temporary status on 18.1.1988 but his services never came to be regularized. As per rules, the pensionary benefits are admissible only to regular railway employees. Since his services were not regularized, therefore, only the provident fund and not the other benefits were admissible to him, which has already been paid to him vide CO 7 No.21 dated 16.5.2008. Thus, the applicant is not entitled for any other benefit.

8. The applicant has failed to disclose as to under what circumstances her husband undergo treatment at MBS Hospital, Kota. She has also failed to substantiate the admission of her husband in the railway hospital or any reference by it to have treatment at the MBS Hospital. Further, she never submitted all these documents to the competent authority. The document Ann.A/9 clearly demonstrates that her husband was admitted on the advice of Dr.R.K.Tanwar. Further, the document Ann.A/10 seems to be fabricated inasmuch as there is no correlation between Part-B & Part-C of the annexure. As already submitted, services of applicant's husband were never regularized. Therefore, she has no claim on this count against the answering respondents.

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9. As regards compassionate appointment, the respondents have stated that Ann.A/1 would clarify that the process for grant of compassionate appointment had already been initiated and is pending consideration with the competent authority. The applicant has already been informed about the same. Accordingly, she cannot have any grievance in this regard at this stage.

10. Heard the rival submissions made by the respective parties and perused the material available on record. Learned counsel for the respondents raised the preliminary objection that the present OA is not maintainable as it seeks plural reliefs like family pension, payment of pensionary benefits, reimbursement of medical claim, compassionate appointment, payment of CTD account etc. Learned counsel for the applicant argued that the cause of action is one i.e. death of applicant's husband and all these benefits the applicant is claiming are the consequences of death of her husband. Therefore, there is no plurality of reliefs. I am inclined to agree with the submission made by learned counsel for the applicant.

11. The second preliminary objection raised by learned counsel for the respondents was with regard to respondents No.5&6 as they being private parties are not amenable to the jurisdiction of this Tribunal. Learned counsel for the applicant submitted that he is not pressing for the relief claimed against them. Thereafter, the OA was heard on merit.

12. Learned counsel for the applicant argued that applicant's husband had the lien with DRM, Kota, and in support of his argument, he drew attention of the Tribunal to Ann.A/2. He also drew attention of the Tribunal to Rule 2006 (F.R.12A) Lien, which reads as under :

**"2006. (F.R. 12A.) Lien** – Unless in any case it be otherwise provided in these Rules, a railway servant on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien previously acquired on any other post."

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This aforesaid rule stipulates that a person who holds a lien at a particular post must be a railway servant on a substantive appointment to any permanent post and thus learned counsel for the applicant argued that since applicant's husband had a lien, therefore, he should be treated as a railway servant on a substantive appointment against a permanent post. Therefore, being a regular employee, his wife i.e. the applicant is entitled to family pension and other retiral benefits.

13. Learned counsel for the respondents argued that as per the record available with them, the deceased employee was a temporary status holder and his services were never regularized. As per rules, pensionary benefits are admissible only to regular railway employees. As regards the facts as stated in Annexure A-2 regarding lien at DRM Office, Kota, he argued that this document has not been signed by any railway authority, therefore, it can not be taken as authentic. Since this document has not been signed by any railway authority, it will be incumbent upon the applicant to disclose to DRM, Kota [respondent No.3] the source from which this was obtained and the DRM, Kota, will verify the authenticity of this document within a period of three months from the date of receipt of a copy of this order and if claim of the applicant that her husband holds a lien at DRM Office, Kota, is found correct, then further necessary steps like sanction of family pension and other pensionary benefits may be examined as per rules on the subject.

14. As regards medical reimbursement is concerned, learned counsel for the applicant argued that the deceased employee was referred to MBS Hospital, Kota, by the Divisional Hospital, Kota, on 9.8.2006. He referred Annexure A-6 in this connection, which is a letter referring Shri Raj Bahadur to MBS Hospital, Kota. He also drew attention of the Tribunal to Annexure A-9 & A-10 in this regard. In Annexure A-10, the Sr. Divisional Medical Officer, WCR, Kota, has

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certified that the requisite treatment was not available, therefore, the patient was directed to MBS Hospital, Kota. Learned counsel for the applicant, therefore, argued that since the applicant's husband was referred by the Sr. Divisional Officer to a private hospital, the medical expenses should be reimbursed to the applicant.

15. Learned counsel for the respondents argued that as per Annexure A-9, the patient was admitted to the Hospital on the advise of Dr. R.K.Tanwar, who was the treating doctor at MBS Hospital, Kota. Therefore, it can not be said that the patient was referred by the railway hospital and since he was not referred by the railway hospital to a private hospital, any expenditure on the treatment in a private hospital is not reimbursable.

16. It is not disputed that even a temporary railway employee is entitled for free medical treatment. Annexure A-6 & A-10 clearly indicate that Shri Raj Bahadur was referred by the railway hospital to the private hospital and, therefore, the applicant is entitled to reimbursement of the medical expenses incurred on the treatment of the deceased, Shri Raj Bahadur, at the private hospital. The respondents are directed to make the payment of admissible amount to the applicant within a period of three months from the date of receipt of a copy of this order.

17. As regards grant of compassionate appoint to the son of deceased is concerned, it is not disputed that his case is under consideration by the respondents. Annexure A-1 has not been disputed even by learned counsel for the respondents. Accordingly, the respondents are directed to take final decision regarding compassionate appointment to the son of the applicant expeditiously but not later than three months from the date of receipt of a copy of this order.

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18. With these observations, the OA as well as MA stand disposed of. No order as to costs.

*Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

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