

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-550/2015

Reserved on : 26.04.2016.

Pronounced on : 28.04.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Smt. Raj Bala, Aged 57 years
Widow of Sh. Surender Prakash,
R/o H.No. 272,
Sunara Bahmana Street,
VPO Kanjhawala, Delhi-81.

.... Applicant

(through Sh. M.S. Saini, Advocate)

Versus

1. Union of India through
Secretary,
Ministry of Communications,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi-110001.
2. Post Master General,
Department of Posts,
Delhi Circle,
New Delhi.
3. Director,
New Delhi Sorting Division,
Department of Post,
New Delhi.

.... Respondents

(through Ms. Bhaswati Anukampa, Advocate)

ORDER

The applicant's husband was engaged as a casual labour by the respondents w.e.f. 27.06.1982. He was conferred temporary status on 29.11.1992 w.e.f. 28.11.1989. He unfortunately died on 05.02.2010. The applicant approached the respondents after the death of her husband for grant of family pension but could not get satisfactory reply. She submitted a representation on

10.11.2014. However, vide impugned letter dated 30.12.2014, she was informed that her husband was temporary status casual labour employee and was not entitled for any pensionary benefits. She has, therefore, approached this Tribunal by filing this O.A. seeking the following relief:-

- “(a) to quash and set aside the order dated 30-12-14 to the extent it denies grant of family pension and other retiral dues to the Applicant;
- (b) to issue directions to the Respondents to grant family pension and to release retiral benefits including other terminal dues of her late husband with consequential arrears along with interest at the rate of 18% per annum;
- (c) to pass such order as this Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case.”

2. Learned counsel for the applicant argued that the husband of the applicant had put in long years of service with the respondents and had even been conferred temporary status. His pay was also fixed under the CCS (Revised Pay) Rules, 2008. Yet, the respondents have not granted family pension to the applicant. Learned counsel has relied on the following judgments in support of his case:-

- (i) Prabhavati Devi Vs. UOI & Ors., 1996(1) SLR 28.
- (ii) Yashwant Hari Katarak Vs. UOI & Ors., 1995(8)SLR 56.
- (iii) UOI & Anr. Vs. Jaywanti Devi, [WP(C)-4901/2008] decided on 19.11.2010.
- (iv) The G.M., South Central Railway Vs. Shaik Abdul Khader, 2003(4) ALD 560.
- (v) Smt. Latifan Vs. UOI & Ors., 2002(1) ATJ 81.

to say that the applicant be granted family pension by counting 50% of the casual service and 100% of temporary status service for the purpose of pension.

3. In their reply, the respondents have stated that the applicant was a casual labour employee, who had been conferred temporary status. However,

he could not be regularized before his death as several temporary status casual labour employees senior to him were available for regularization. Thus, the husband of the applicant was not entitled for grant of any pensionary benefits and consequently the applicant can also not be granted family pension.

4. I have heard both sides and perused the material on record. On going through the judgments relied upon by learned counsel for the applicant, I find that all of them pertain to Railway employees, who were governed by Rule-2311(3)(b) of IREM read with Para-801 of the Manual of Railway Pension Rules. The applicant, however, does not belong to the Railway. His parent department was Department of Posts. As far as this Department is concerned, the relevant Instructions for granting benefits to casual labour have been annexed by the applicant himself with his O.A. at pages-31-32 of the paper-book. This is an extract from Swamy's Establishment and Administration. The relevant para-5 of the aforesaid compilation reads as follows:-

"Benefit to casual labourers on completion of three years' service in temporary status.- In their judgment, dated 29-11-1989, the Hon'ble Supreme Court have held that after rendering three years of continuous service with temporary status, the casual labourers shall be treated at par with temporary Group 'D' employees of the Department of Posts and would thereby be entitled to such benefits as are admissible to Group 'D' employees on regular basis.

2. In compliance with the above-said directive of the Hon ble Supreme Court, it has been decided that the casual labourers of this department conferred with temporary status as per the scheme circulated in the above-said circular No 45-95/87-SPB I, dated 12-4-1991, be treated at par with temporary Group „D employees with effect from the date they complete three years of service in the newly acquired temporary status as per the above-said scheme. From that date, they will be entitled to benefits admissible to temporary Group „D employees such as -

(1) All kinds of leave admissible to temporary employees;

(2) Holidays as admissible to regular employees;

(3) Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on regular basis for those temporary employees who are given

temporary status and who complete three years of service in that status while granting them pension and retirement benefits after their regularization;

(4) Central Government Employees' Insurance Scheme;

(5) General Provident Fund;

(6) Medical Aid;

e Travel Concession;

(8) All advances admissible to temporary Group „D employees;

(9) Bonus.

3. Further action may be taken accordingly and proper service record of such employees may also be maintained."

5. From the above, it is clear that pensionary benefits in Department of Posts are granted only to regular employees. This is evident from Para-5(2)(3) of the above. Since the applicant was never regularized, he was not eligible for pensionary benefits. **Shaik Abdul Khader's** judgment (supra) for counting 100% of temporary service and 50% of casual service for pensionary benefits also applies to regular employees only.

6. Thus, in my opinion, there is no merit in this O.A. and the judgments relied upon by the applicant are of no help to her. The O.A. is, therefore, dismissed. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/