

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

OA No.1567/2014

this the 31st day of January, 2017

Hon'ble Mr. V. Ajay Kumar, Member (J)

Smt. Rukmani
Aged 45 years
W/o Late Shri Gyan Chand First
Designation: Mailman (Temporary Status)
S/o Shri Harla Ram
R/o 337A/1B, Left Side of Budh Vihar
Munirka Village
Delhi – 110 067. Applicant.

(By Advocate: Shri C.S.Sharma)

Versus

1. Union of India through
its Secretary
Department of Posts
Dak Bhawan, Sansad Marg
New Delhi – 110 001.
2. The Chief Post Master General
Delhi Circle
Meghdoot Bhawan, New Delhi.
3. The Senior Superintendent
R.M.S.
Airmail Sorting Division
Chankya Puri
New Delhi – 110 021. Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

ORDER (ORAL)

Heard both sides.

2. The applicant's husband late Shri Gyan Chand died on 02.12.2011 while working as temporary status Casual Labour. The applicant's husband was conferred with temporary status on 29.11.1989 and thereafter, he was

conferred with temporary status at par with Group-D (TGD) after completion of three years of service as Temporary Status w.e.f.29.11.1992. The applicant made representations, including Annexure P-1 representation dated 30.12.2011, seeking to grant of pensionary benefits, death gratuity, leave encashment etc. As the respondents have not given any reply to her representations, she filed the present OA on 03.04.2014.

3. The learned counsel for the applicant submits that in terms of Annexure P-2 Order, dated 12.04.1991, the applicant is entitled for granting of pensionary benefits on the death of her late husband. He further submitted that when an identical person approached the Hon'ble Apex Court, vide order dated 25.09.2014 in **S.P.Uniyal & Ors. Vs. UOI**, Civil Appeal No.3488/2010, the Hon'ble Apex Court directed the respondents therein to induct him into the service of the Railway and to regularize and also to consider the claim of his family members for family pension and other retiral benefits due to the applicant.

4. On the other hand, the learned counsel for the respondents submits that the O.A. is liable to be dismissed on the ground of limitation. It is submitted that the applicant's husband died on 02.12.2011 and the Annexure P-1 representation was made on 30.12.2011 whereas the applicant filed the OA after much delay in 2014. It is also submitted that whatever benefits accrued by virtue of temporary status of the applicant's husband such as CGEGIS amount etc. have already been released to the applicant. Even the amount of GPF/CPF amount was also refunded to the applicant. It is further specifically stated that till the applicant's husband death, he could not come up for selection for regularization as per his seniority and, hence they cannot treat him as regular group 'D' employee and hence not entitled for pensionary benefits. The Annexure P-2 Order, on

which the learned counsel for the applicant placed reliance, is a general Circular indicating the scheme of conferment of temporary status on the casual labour under certain circumstances. In fact, the applicant was granted temporary status in pursuance of the said Annexure P-2 and also granted the benefits thereto.

5. In **S.P. Uniyal (Supra)** the Hon'ble Apex Court considering the fact that though the appellant no.4 in the said case died during the pendency of the litigation but some of the persons who were inducted into the service of the Railways subsequent to the 4th appellant were regularized, held that 4th appellant would have also been regularized, had he been alive and accordingly directed to consider the claim of the family members of the 4th appellant, for grant of family pension and/or other retiral benefit, as are due to regular employees.

6. It is not the case of the applicant that any other person, who inducted later to the applicant's husband was regularized. Therefore, the said decision of the Apex Court would not be applicable to the present case.

7. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and, accordingly, the same is dismissed. No costs.

(V. Ajay Kumar)
Member (J)

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