

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH**

Original Application No.424/2016
Dated the 26th day of April, 2019

CORAM :

Hon'ble Shri. M.C.Verma, Member (J)

Smt Hemliben S Parmar,
W/o. Savjibhai Umedbhai Parmar,
Aged 61 years,
R/O: AT & PO. Near Kabrasthan Datia,
Tal. Limkheda, Dist – Dahod – 389 151.

... Applicant

By Advocate Ms S S Chaturvedi

V/s

1 Union of India,
Notice to be served through
General Manager, Western Railway,
Churchgate, Mumbai – 400 020.

2 Divisional Railway Manager(E),
Western Railway, Pratapnagar,
Baroda – 390 004.

... Respondents

By Advocate Shri M J Patel

O R D E R (ORAL)

Per : M.C.Verma, Judicial Member

1 The applicant, widow of deceased Railway Employee, has filed instant OA seeking a direction to the respondents to release in her favour the Ex-gratia Compensation, retirement cum death benefit, Pension with all consequential benefits.

2 The brief facts of the case of applicant as set out in the OA are that applicant's her the deceased Thereafter applicant's husband (Savjibhai Umedbhai Parmar) was engaged by respondents on 21.03.1978 as a casual labour and vide letter dated 09.12.1982 (annexure A-4) was granted temporary status w.e.f. 21.07.1978. That thereafter instead of regularisation, vide letter dated 04/04/84 (Annexure A-5) temporary status second time, w.e.f. on 03.06.1983 was granted to her husband.. That her husband while was in service died on 30.10.1984. That

after death of her husband Welfare Officer took all the related paper from her and informed that the family will receive Ex-gratia/workmen Compensation and other retirement benefit like pension, etc within short time. That on 25.02.1985 she also filed representation for death cum retirement benefits but the respondents did not reply to the same. That she again filed representation on 10.12.2014 and then vide letter dated 16.01.2015 respondents replied that service details of her deceased applicant are not available. That she gave further representations on 27.01.2015 22.06.2015 and also collected service sheet of her husband under RTI Act but the respondents did not reply the same till date and hence is the instant OA. Applicant has also filed MA No. 219/2016, application for condonation of delay with her OA.

3 Respondent contested the case and in their reply pleaded that from the copy of service sheet of husband of applicant it is clear that he was engaged as C/L Khalasi in the unit of FO(TT) Engg. With effect from 6/12/82 and on completion of four months continuous service, was rightly granted temporary status with effect from 3/6/83 and before regularisation he died on 30/10/84. That no application of applicant for Ex-gratia Compensation was received in the department and that applicant's husband has died in year 1984 and Scheme of Ex-Gratia Lump sum compensation to the dependent /family of deceased employee was introduced only in year 1999 vide RBE 28519/99 (Annexure R/1) and hence applicant is not entitled to Ex-Gratia Lump sum compensation and that payment of workman compensation, to which only the applicant was entitled to has been granted to her On 8/7/85 vide letter Annexure R/2. In separate reply filed for MA No. 219/2016, application for condonation of delay it has been pleaded that there is inordinate unexplained delay of 28 years and OA may be dismissed on that score also.

4 Applicant has filed rejoinder stating that the reply filed by respondent is misleading. She denied that no representation was given by her. It has also been asserted that there is provision for pension also, which is a continuous cause and reply of respondent is silent about pension.

5 I have heard learned counsel Ms. S. S. Chaturvedi Advocate, who appeared for applicant and Mr. M.J. Patel, learned counsel for respondents and have perused the record minutely. As per applicant her husband was engaged by respondents on 21.03.1978 as a casual labour and vide letter dated 09.12.1982

(Annexure A-4) was granted temporary status w.e.f. 21.07.1978 and thereafter instead of regularisation, vide letter dated 04/04/84 (Annexure A-5) temporary status second time, w.e.f. on 03.06.1983 was granted to her husband and that her husband while was in service died on 30.10.1984 whereas according to respondent husband of applicant was engaged as C/L Khalasi in the unit of FO(TT) Engg. With effect from 6/12/82 and on completion of four months continuous service he was granted temporary status with effect from 3/6/83 and before regularisation he died on 30/10/84.

6 The short point to be considered in OA is whether the applicant is entitled to family pension and other death cum retirement benefits but before taking note of the merit of OA it is necessary to deal with the MA for condonation of delay. It is pertinent to note that MA No.219/2016, application for condonation of delay, is still pending. Instant OA, assailing inaction on the part of respondents not to release the Ex-gratia Compensation, retirement cum death benefit & Pension in favour of applicant was presented on 3/5/16. The husband of applicant died in year 1984 and cause of action thus has commenced in year 1984 itself. Undoubtedly there is delay in filing the OA. According to respondent there is inordinate unexplained delay of 28 years and OA may be dismissed on that score alone.

7 It is submitted by learned counsel for applicant that the applicant, widow of deceased employee approached office of respondents for family pension and retrial dues and ultimately when nothing positive yielded, she gave representation on 27.01.2015 and again on 22.06.2015. That applicant received letter dated 16.01.2015 from respondent stating that the service record of the deceased employee is not available, applicant submits that she procured all the information under RTI Act. She referred letter dated 26.08.2014 issued by APO-I & APO/BRC (Annexure A/9). Ld. Counsel vehemently stressed that applicant gave representations, copy of which are Annexure A/1 & A/2 and her representations are still pending. She urged that pension is a continuous cause of action, that applicant also waive her right to claim interest on arrears of pension and retrial benefit, OA should not be dismissed on the ground of delay and applicant shall be satisfied if condoning delay, if there is any, respondent be directed to consider her case and to decide her representation within stipulated time frame.

8 It is not disputed by learned counsel for respondents that no representation dated 27.01.2015 & 22/6/15 was received and his prime contention centred around the submission that death of husband of applicant took place in the year 1984, applicant had not approached the Tribunal in time, she did not take proper steps for more than 28 years and thus there is inordinate delay and OA is liable to be dismissed.

9 Considered the submissions. Issue of pension involves in the OA and issue of pension is a continuous cause of action hence taking note of overall circumstances, especially the fact the applicant has given undertaking waiving her right to claim interest on arrears of pension & reiral benefits, MA No.219/2016, application for condonation of delay is allowed. Respondents are directed to consider the case of applicant for grant of retiral benefits and pension by passing a reasoned and speaking order on her representations dated 27/1/15 & 22.06.2015 within two months from the date of receipt of copy of this Order. Copy of said representations is also annexe of this OA.

10 Instant OA accordingly stand disposed of. No order as to cost.

(M C VERMA)
MEMBER(J)

abp

