

CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH, AHMEDABAD

O.A. No. 333/2016 with MA No. 99/2016
DATED THE 9TH DAY OF JANUARY, 2019

CORAM :

Hon'ble Ms. Archana Nigam, Member (A)
Hon'ble Shri. M.C. Verma, Member (J)

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Shri Chhanabhai D Dabhi,
S/o. Dungarbhai Dabhi, Aged 67 years,
Retd. As Watchman, working under
Engineering Department in RJT, Div.
R/O : No.117/E, "B" Rly,
Colony Wakner, Dist. – Rajkot – 363621. ... Applicant

Through the legal heirs

- i) Manjuben C Dabhi,
W/o. Chhanabhai D Dabhi, Aged 65 years,
- ii) Bhanuben C Dabhi,
D/o. Chhanabhai D Dabhi, Aged 37 years
- iii) Kalubhai c Dabhi,
S/o. Chhanabhai D Dabhi, Aged 32 years
- iv) Hiteshbhai c,
S/o. Chhanabhai D Dabhi, Aged 27 years

All Resident of No. 117/E, "B" Railway Colony, Wakner, Dist –
Rajkot – 363 621.

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),
Divisional Office,
Kothi Compound,
Rajkot – 360 001.

- 3 Sr. Divisional Financial Manager,
Divisional Office, Kothi Compound,
Western Railway, Rajkot – 360 001.
- 4 Dy. Chief Engineer,
(survey & construction),
Kothi Compound,
Western Railway, Rajkot-360001.

By Advocate :Ms R R Patel

O R D E R (ORAL)

Per Shri M C Verma, Member (J)

1 Instant OA is the second round of litigation as earlier applicant had approached this Tribunal vide OA no. 48/2009 and this Tribunal vide its order dated 27.02.2013 disposed of said OA no. 48/2009 with directions, the details of which are as under:-

- (i) *The respondents would designate an officer, who would issue notice to the applicant to give him a personal hearing as well as to produce such documents as he may wish to show in favour of his claim. Necessary documents/records available with the respondents should also be available with the designated officer so that he may take a view based on the facts and pleadings of both sides and come to a fair conclusion with respect to the claim of the applicant.*
- (ii) *The fact that according to the respondents, the applicant worked in broken spells will also have to be ascertained by the said designated officer in the light of the rules and instructions, and also whether the applicant himself remained absent from duty or was prevented from work because of work being allotted to him by the respondents.*
- (iii) *The above exercise be undertaken and completed within a period of four months from the date of receipt of a copy of this order.*
- (iv) *A copy of this OA be also provided to the concerned designated officer to look at the claim made before us by the applicant.*
- (v) *The applicant would have liberty to seek legal remedy, if so advised after his claim is decided by the respondents."*

2 Instant OA has been preferred raising the grievance that though the applicant submitted the documents as per order passed in above said OA 48/2009, but the respondents arbitrarily rejected the claim of applicant on false ground that neither applicant appeared for personal hearing nor did supply documents. Notice of the OA

was given. Respondents have appeared and filed their detailed reply pleading that no documents were supplied and hence again the controversy involved is whether the documents in support of his claim has been preferred or not by the applicant. The matter relates to and rival contentions of parties to *lis* leads nowhere to arrive on correct conclusion about issue of family pension.

3 Taking note of the facts in entirety and to do whole justice, we are of the view that this OA be disposed of at this stage with direction to the respondents to look into the case of the applicant afresh, taking note of the documents available on the record of this OA, upon which applicant wants to place reliance. Learned counsel for applicant stated at Bar that respondent may consider Annexures A/3, A/4, A/5 and A/6 of OA as the documents of applicant for consideration of family pension case of the applicant and that said documents have been supplied to respondents with the OA. Counsel for respondents do admit that the copy of Annexures A/3, A/4, A/5 and A/6 are attached with the copy of OA of the respondents.

4 Taking note of above submissions, respondents are directed to look into the case of the applicant afresh as per directions in OA 48/2009 and pass a speaking order within two months, from the date of receipt of copy of this order

5 OA stands disposed of with above directions. MA No. 99/2016 also stands disposed of. No order as to costs.

(M C VERMA)
MEMBER(J)

(ARCHANA NIGAM)
MEMBER(A)

abp

