

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 551 of 2016

This the 08th day of January, 2019

Hon'ble Ms. Jasmine Ahmed, Member-J

Smt. Kismata Devi, aged about 52 years, W/o Sri Jagan Nath, R/o Village Balrampur (Pathakpur), Post Kenaura, Police Station Kotwali Dehar, District Sultanpur, U.P.

.....Applicant

By Advocate : Sri Dharmendra Awasthi and Sri Q. V. Ahmed

Versus.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Firozpur, Punjab.
3. The Assistant Personnel Officer, Northern Railway, Divisional Officer, Firozpur Cantt., Firozpur Punjab.
4. The Chief Medical Superintendent, Northern Railway, Firozpur, Punjab.
5. The Sr. Medical Superintendent, Northern Railway, Amritsar, Punjab.
6. The Chief Health Inspector, B Block Amritsar, Punjab.
7. The Sr. Welfare Inspector, Northern Railway, B Block Amritsar, Punjab.

.....Respondents.

By Advocate : Sri Ashuthosh Pathak

O R D E R (Oral)

At the outset, it is stated that the aforementioned O.A. was dismissed in default for non-prosecution vide order dated 26.4.2017. Thereafter the applicant filed M.A. 395 of 2018 for recall of the order dated 26.4.2017 alongwith an application for condonation of delay vide M.A. No. 394 of 2018. The aforementioned M.As were listed before this Tribunal on 6.9.2018 and after hearing the counsel for the parties, the Recall application (M.A. No. 395 of 2018) was allowed and the case was directed to be listed on 12.9.2018 and thereafter the

case was listed on several dates including on 19.11.2018. On 19.11.2018 , due to inadvertence of Judicial Section, the M.A. No. 395 of 2018 was again listed for orders. Inadvertently, M.A. No. 395 of 2018 has again been dismissed which was already adjudicated vide order dated 12.9.2018. As on 19.11.2018 the order was passed on M.A (395/2018) which has already been adjudicated as such the order dated 19.11.2018 is hereby recalled. Since the order dated 19.11.2018 is recalled hereinabove, then there is no occasion to pass any order on M.A. No. 1718 of 2018 filed by the applicant.

2. Learned counsel for the applicant states that the applicant's husband namely Jagan Nath while working on the post of Safaiwala under the respondents was missing w.e.f. 7.1.2008 and did not return back to his home. Thereafter the applicant lodged an FIR before the police authorities, but the police has failed to trace-out the applicant's husband. As per relevant section of Evidence Act, if the missing person is not traceable within seven years, then it should be presumed to have been died. As the family of Sri Jagan Nath has no source of income, the applicant preferred a representation to Divisional Railway Manager, Northern Railway Firozpur, Punjab (respondent no.2) on 8.2.2016 for payment of retiral dues of her husband followed by reminders dated 26.3.2016 and 10.5.2016, but no decision has been taken by the respondent no.2 on the pending representation followed by reminders. Learned counsel for the applicant, at this stage, submits that he would be happy and satisfied that if a direction is being given to the respondent no.2 to consider and decide the pending representation dated 8.2.2016 followed by reminders dated 26.3.2016 and 10.5.2016 in accordance with

law within a time bound manner. It is noticed that though there is delay of about one year from the date of missing of the employee till filing of first representation on 8.2.2016, but considering the peculiar facts and circumstances of the case, I hereby condoned the delay for the reasons mentioned therein.

3. Accordingly, the respondent no.2/competent authority is directed to take a conscious decision on the pending representation of the applicant dated 8.2.2016 followed by reminders dated 26.3.2016 and 10.5.2016 by passing a reasoned and speaking order in accordance with law within a period of three months from the date of receipt of certified copy of this order under intimation to the applicant. It is made clear that nothing has been commented on the merits of the case.

4. With the above observations, the O.A. stands disposed of. There shall be no order as to costs.

**(Ms. Jasmine Ahmed)
Member-J**

Girish/-