



G.A. 350/1322/2015

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA

PARTICULARS OF THE APPLICANT:

Bimala Devi, wife of late Srtrughana Mahato, aged about 65 years, residing at
Village – Alkusha, P.O. – Alkusha, District – Bokaro, State – Jharkhand, Pin
827013

..... APPLICANT

V E R S U S -

- I. The Union of India, through the General Manager, South Eastern Railway, Garden Reach Road, Kolkata 700043
- II. The Senior Divisional Personnel Officer, South Eastern Railway, Adra, P.O. + P.S. – Adra, District – Purulia.
- III. The Chief Personnel Way Inspector, Now designated as SSE, (P Way), B K S C, South Eastern Railway, P.O. + District – Bokara, (Jharkhand).

..... RESPONDENTS

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1322/2015

Date of order : 28.08.2019

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

BIMALA DEVI
VS.
UNION OF INDIA & OTHERS
(S.E. Railway)

For the applicant : Mr. A. Chakraborty, counsel

For the respondents : Mr. R.K. Shah, counsel

ORDER

Bidisha Banerjee, Judicial Member

The applicant in this O.A. has sought for the following reliefs:-

"(a) An order do issue directing the respondents to extend the benefit as Judgment passed by the Hon'ble Apex Court in Union of India & Ors. vs. Sarju in favour of the husband of the applicant(since deceased) and to grant all benefits;

(b) An order directing the respondents to grant the applicant the family pension with effect from the date of death of her husband."

2. The applicant claimed that she is the widow of one, Satrughana Mahato. The admitted facts that emerge from the pleadings are that her husband, Late Satrughana Mahato, ex Gangman under CPWI/BKSC rendered the following period of service:-

(i) As a Project Casual Gangman from 30.12.1977 to 31.12.1981

(ii) On temporary status w.e.f. 01.01.1982 (in scale of Rs.775-1025/-) to 31.09.1994;

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(iii) On regular basis w.e.f. 01.10.1994 to the date of his superannuation on 31.01.1995.

The widow has claimed that at least half of casual service and half of service on temporary status(if not full) in terms of the decision rendered by Hon'ble Apex Court in **Union of India & Others vs. Sarju**, should reckon for pension.

3. The respondents have averred that the date of appointment of the deceased employee was reckoned from 01.01.1982 and as such he was eligible to count half of his service from the date of attainment of temporary status to the date of regularisation, towards pension. He rendered less than one year regular service and even after computing 50% of his service on temporary status i.e. from 01.01.1982 to 31.09.1994 it came to 6 years 4 months and 1 day which added to 3 months 30 days and excluding 24 days LWP 3 months 6 days of regular service, when added to such 50% of temporary status, fell short of 10 years of regular service eligible for pension, therefore, the relief sought for and that too at this distant date is not permissible.

4. To counter such allegation Id. counsel for the applicant would cite the decision of the Hon'ble Supreme Court in **Union of India & Others vs. Rakesh Kumar & Others**[(2018)1 Supreme Court Cases(L&S)51, that :-

"53.1. The casual worker after obtaining temporary status is entitled to reckon 50% of his services till he is regularised on a regular/temporary post for the purposes of calculation of pension.

53.2. The casual worker before obtaining the temporary status is also entitled to reckon 50% of casual service for purposes of pension.

53.3. Those casual workers who are appointed to any post either substantively or in officiating or in temporary capacity are entitled to reckon the entire period from date of taking charge to such post as per Rule 20 of the 1993 Rules.

53.4. It is open to Pension Sanctioning Authority to recommend for relaxation in deserving case to the Railway Board for dispensing with or relaxing requirement of any rule with regard to those casual workers who have been subsequently absorbed against the post and do not fulfill the requirement of existing rule for grant of pension, in deserving cases. On a request made in writing, the Pension Sanctioning Authority shall consider as to whether any particular case deserves to be considered for recommendation for relaxation under Rule 107 of the 1993 Rules".

5. We heard the Id. counsels for the parties and perused the materials on record.

6. It has been submitted by Id. counsel for the applicant that the General Manager of concerned Railway is empowered to condone such period of shortfall in service that reckon towards pension. We understand that 9 years 9 months regular service of a Railway employee would enure to his own pension, while only one year regular service would enure to family pension payable to his widow. In the present case the employee had put in casual service of 4 years, 12 years 9 months of service on temporary status followed by a little over 3 months of regular service. Given that pension sanctioning authority in deserving cases can relax requirement of fulfilling 9 years and 9 months of regular service, half of casual and temporary service (being almost 8 and a 1/2 years) if added to his regular service, and shortfall if condoned by the competent authority by relaxing requirement, in terms of Rule 107 of 1993 Rules, would make the widow eligible to earn family pension, extremely necessary for her sustenance.

7. Hence, we dispose of this O.A. with liberty to the applicant to seek a sympathetic consideration on the basis of the decision(supra) and for the purpose approach the General Manager with a representation for forwarding it to the Railway Board for condonation of the period falling short of the eligibility period that counts towards pension in relaxation of a requirement that stands in the way of such counting so that the applicant herein, a widow, is able to earn her family pension.

8. A representation to that effect be preferred to the General Manager by 4 weeks from the date of receipt of a copy of this order, which if preferred shall be forwarded to the competent authority and shall be disposed of with a reasoned and speaking order, within 4 months from the date of its receipt. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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