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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 947/2003

New Delhi, this the 08th day of November 2006

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Late Smt. Devika Devi
W/o Late Shree Jagdish Mandal,
Represented through legal heirs

- 1(a). Shri Prakash Chandra Chourasia,
Resident of 235, B-9, Aya Nagar Colony,
Delhi-47.
- 1(b) Shri Bhubneshwar Prasad Chourasia,
Resident of Barachak, Post Pattam, District Munger,
Bihar,
- 1(c) Shri Niranjana Kumar Chourasia,
Resident of Bairachak, Post Pattam, District Munger,
Bihar.

.... Petitioners / Applicants

(By Advocate Shri Himanshu Munshi)

VERSUS

The Ministry of Railway,
Through Secretary,
Rail Bhawan,
Near India Gate,
Government of India,
New Delhi.

... Respondent.

(By Advocate Shri R.L. Dhawan)

O R D E R (ORAL)

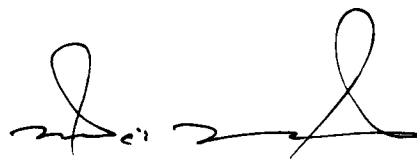
Heard learned counsel for both sides & perused pleadings.

2. It is an admitted fact that applicant's deceased husband was a freedom fighter and was in receipt of freedom fighter pension. After death of applicant's husband, who had been a railway employee, applicant was in receipt of family pension too, which has been withheld by Railways stating that applicant is not
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entitled to two pensions namely freedom fighter's pension as well as family pension for the railway services rendered by her husband.

3. This Tribunal under the provisions of Administrative Tribunals Act, 1985 cannot consider as well as comment on the validity or otherwise on freedom fighter's pension as that will not be the "service matter" within the provisions of Section 3(q) of the Administrative Tribunals Act, 1985. This Tribunal can only determine as to whether respondents are justified in withholding, restricting or stopping the said family pension. In my considered view, this issue cannot be addressed in isolation and necessarily has to adjudicate in relation to freedom fighter's pension.

4. Accordingly, learned counsel for applicant seeks and is allowed to withdraw present OA with liberty to take up the issue at an appropriate forum. Accordingly, OA is dismissed as withdrawn, with liberty.



(Mukesh Kumar Gupta)
Member (J)

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