

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A. No. 27/2014 with MA Nos.19/2014 & 226/2019

This the 02nd day of December, 2019

Smt. Kashiben Parwatbhai Baria
Late Parwatbhai Baria
Aged 46years
Village : Ourwada
Post : Raliyata, – Tal. Godhara
Dist. Dahod389130..... Applicant

(By Advocate : Ms.S.S.Chaturvedi)

VERSUS

1. Union of India,
Notice to be served through
The General Manager
Western Railway
Churchgate, Mumbai 400020.
2. The Divisional Railway Manager (E),
Western Railway
Pratapnagar, Baroda.390 004.
3. The Senior Divisional Finance Manager,
Western Railway, DRM Office,
Pratapnagar,
Baroda- 390 004..... Respondents

(By Advocate : Shri M.J.Patel)

ORDER (ORAL)

Per : Hon'ble Shri M.C.Verma, Judicial Member

Instant OA has been preferred by applicant Smt. Kashiben Parwatbhai Baria, wife of late Shri Prawatbhai Baria. It is the second round of her litigation for family pension. Previously applicant has preferred OA No.02/2007 and vide Order dated

CAT, Ahmedabad Bench

10.01.2007 said OA was disposed off by the Tribunal directing the respondents to consider the OA as a representation made by the applicant and pass necessary order within three months from the date of the receipt of the order. Respondent thereafter did pass Order dated 09.08.2007 denying family pension to the applicant on the ground that her husband was casual labour and thus was not entitled to any settlement dues. In instant OA, which is accompanied by an MA No. 19/14, for condonation of delay, it is the Order dated 09.08.2007 which has been impugned by the applicant, the said order, for sake of brevity is reproduced herein below :-

"No.E/351/CC-OA 2/07

*Divisional Office,
Vadodara,
Dated 09.08.2007.*

*To,
Smt. Kashiben P. Baria
W/o. Late Shri Prawat Baria
Village : Ourwada
Post : Raliyata – Tal. Godhra
Dist. Dahod.*

*Sub : OA No.2/2007 filed by Mrs. Kashiben P. Baria w/o.
Late Shri Parwat Baria
Ref : Hon'ble CAT ADI order dated 10.1.2007*

In compliance to Hon'ble CAT ADI's Judgment in OA No.2/2007 case of Smt. Kashiben P. Baria has been examined in detailed and it is observed as under :

- 1. Late Shri Parwat Baria was engaged as Casual Labour on 06.12.79.*
- 2. Late Shri Parwat Baria was working as Casual Labour before regularisation he was expired and therefore not entitled for pension.*
- 3. No rules available in pension Manual for family pension in case of T/s holder.*
- 4. Since Shri Parwat Baria was working as Casual labour, hence, he is not eligible for any benefit of Settlement dues.*

Please acknowledge the receipt.

*-sd-
For DRM (E) BRC."*

2. It is the case of the applicant, as has been set out in her pleading that her husband was working as casual labour under the respondents and died in harness on 06.06.1985. That her husband was appointed as casual labour on 06.12.1979 and was granted Temporary Status on 01.4.1982 and that his name appeared in the Grant of scale rate of Casual Labour dated 04/05/83 (Annexure A-2). That she has been illegally denied family pension.

3. Respondents have filed their reply on 18.07.2014. Reply cantered around the pleadings that name of person in list of the Grant of scale rate of Casual Labour is Prabhat Bhaiji and name of the husband of the applicant is Pravat Baria. That there is no such Unit having name CTSI/ Const/PRTN in S&T Deptt., Western Railway, Baroda Division where Shri Parwat Bhaiji has been pleaded to be worked. That name of the person in medical certificate supplied with OA is not readable. That order impugned is having no illegality and there is no valid reason for the applicant to prefer instant application. **In rejoinder** applicant has taken specific plea that in seniority list (list of the Grant of scale rate of Casual Labour) it is the typographical error committed by the respondents.

4. The issue upon which family pension is or is not to be granted depends upon the regularisation of the employee but unfortunately the applicant in her OA has not specifically

pleaded that her husband has been regularised and strange enough, reply of the respondents is also totally silent on this aspect. It was warranted from the side of the respondents to clear in their reply as to why pension could not be granted and if it is a case of non regularisation they ought to have pleaded the same specifically. This matter was heard in part on 17.10.2019 and the contention of the applicant's counsel was that husband of the applicant was screened and therefore deemed to be regularised. Having found that the issue, which needs adjudication based upon documents which are of period prior to 1985 and copies of documents, annexe of OA, are too fade and are not thoroughly legible so taking note of entirety record was summoned but it could not be produced.

5. Today also applicant's counsel reiterated her contention that husband of the applicant was screened and therefore deemed to be regularised. She also urged that she has produced Photocopy of Identity Card No.05967 as Annexure A-11 of this OA, that said Identity Card is of Manu Parvat who is son of the deceased employee Shri Prawatbhai Baria and that Manu Parvat has been given compassionate appointment by respondents.

6. It is inquired from learned counsel for the respondents whether the ward of a deceased employee who has not been regularised can be given compassionate appointment and he says that it would be appropriate to dispose of this OA with direction

to the DRM(E), Vadodara to go through the matter minutely and deal with the issue whether the person mentioned in list of the Grant of scale rate of Casual Labour and the husband of the applicant are one and same person and if so why family pension cannot be released to the applicant . Learned counsel for applicant also do submits that applicant may be given liberty to bring certain facts to the knowledge of DRM(E) to apprise him about genuineness of her case for family pension.

7. Considered the submissions and perused the records. Having considered the matter in its entirety impugned Order dated 09.08.2007, which is at Annexure A stands quashed. The OA is disposed of with direction to the applicant to file a fresh representation, within one week from the date of receipt of copy of this order, and the respondents are directed to take decision within four weeks from the date of receipt of said representation. Needless to say, respondent shall communicate the decision taken on said fresh representation to the applicant. Pending MA also stands disposed of. No order as to costs.

(**M.C.Verma**)
Member (J)

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