

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00746/2018

Monday, this the 28th day of October, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

Smt. Shajitha P.K.,
Aged 43 years,
W/o Late P.M.Rahim,
Ex-Peon,
Residing at Madathil House,
Thuruth , Aluva – 683 101.Applicant

(By Advocate Mrs. Shameena Salahudheen)

V e r s u s

1. The Union of India
represented by the General Manager,
Southern Railway,
Chennai – 600 003.
2. The Chief Personnel Officer,
Headquarters Office,
Personnel Branch,
Southern Railway,
Chennai – 600 003.
3. The Chief Mechanical Engineer,
Headquarters Office,
Personnel Branch,
Southern Railway,
Chennai – 600 003.
4. The Senior Divisional Mechanical Engineer,
Southern Railway,
Trivandrum Division,
Trivandrum – 695 014.
5. The Senior Divisional Personnel Officer,
Divisional Office, Southern Railway,

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Trivandrum Division,
Trivandrum – 695 014.

....Respondents

(By Advocate Mr.Asif K.H. for Respondents)

This application having been heard on 24th October, 2019, the Tribunal on 28th October, 2019 delivered the following :

ORDER

OA No.746/2018 is filed by Smt.Shajitha P.K., against the failure on the part of the respondents to disburse terminal benefits including pension in the name of her deceased husband who had been compulsorily retired from service. The reliefs sought in the OA are as follows:

I) Declare that the Applicant is entitled to receive the terminal benefits of her late husband and to direct the respondents to effect payment without any further delay.

II) Declare that the Applicant is entitled for Family Pension of her late husband.

III) Direct the 5th respondent to sanction pension in the name of her late husband P.M.Rahim from the date of his Compulsory Retirement and Family Pension in the name of the Applicant and effect payment of all the arrears immediately.

IV) Direct the 5th respondent to consider Annexure A-10 Representation and also the claim for pension and its arrears of the Applicant's Husband and Family Pension of the applicant and pass order immediately.

V) Such other relief as may be prayed for and this Tribunal may deem fit to grant.

VI) Grant the cost of this Original Application.

2. The applicant is a widow and mother of five minor children and had

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approached this Tribunal through High Court Legal Services Committee for redressal of her grievances. She is the widow of the late Shri P.M.Rahim, who had been compulsorily retired from service while working as Peon in the office of the 3rd Respondent. Shri Rahim, who had been granted temporary status as a casual labourer from 07.05.1983, had sustained injuries and was keeping indifferent health. In view of his health condition he was offered alternate job of Peon in the office of the 4th Respondent (Annexure A2). However, due to continuous ill-health he was absent from work on many occasions. Disciplinary proceedings were initiated against him for unauthorised absence and it concluded with the imposition of punishment of compulsory retirement from service as per Annexure A3. His appeal against the penalty order was rejected as also the revision petition.

3. The applicant is the second wife of the deceased employee. He had divorced his first wife as per mutual consent agreement dated 20.09.2003 (Annexure A6) and married the applicant as per marriage certificate at Annexure A7. Shri Rahim expired of complications arising from Liver cancer on 19.04.2015 and a copy of the death certificate is at Annexure A9. After the death of her husband, the applicant and her minor children have been living an extremely penurious life. During his life time, Shri Rahim had made a representation seeking his terminal benefits but did not get any reply. The applicant herself has submitted another representation dated 09.02.2018 explaining the difficult situation she is faced with and seeking

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disbursal of terminal benefits of her late husband. A copy of the representation is available at Annexure A10. This has not elicited any reply from the respondents so far.

4. The respondents have filed a reply statement wherein it is submitted that the proceedings against the late Shri Rahim had followed due process and no amount is due to the applicant or to the late employee or his dependents, as he did not possess 10 years of qualifying service. After being retired compulsorily, the late employee had also neglected to submit necessary details for arranging payment under retirement gratuity, Provident Fund and Group Insurance etc. Hence no amount can be paid. Further it is submitted that the respondent department has no knowledge of the marriage that the late Shri Rahim entered into in 2003 which was well after he was compulsorily retired. In any case no decree has been obtained from the competent court of law certifying the marriage or even his divorce from the first wife.

5. Smt.Shameena Salahudheen was heard on behalf of the applicant and Shri Asif K.H., on behalf of the respondents. There is no dispute regarding the facts of the case in so far as the service of the late Shri Rahim is concerned except to the extent that the authorities state that his service was less than 10 years, whereas according to the applicant, her husband had worked for 15 years. However, it remains a fact that the applicant, who is his

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wife along with her five minor children are living in extremely indigent circumstances after the demise of Shri Rahim. In the reply statement it is submitted that details relating to the erstwhile employee's service are required to process the claim of the applicant. However, in view of the sad circumstances of the case, the respondents are on their own should take special steps to obtain these from their own records and examine the case further. This Tribunal is of the view that interests of justice will be met if the Respondents-2&3 are directed to consider the representation, copy of which is available at Annexure A10. Utmost consideration, possible under law, may be extended to the applicant. A decision may be taken and communicated to the applicant within three months from the date of receipt of a copy of this order. OA is disposed of. No costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00746/2018

- 1. Annexure A1:** True copy of the Office Order No.45/83/WP dated 7.5.1983.
- 2. Annexure A2:** True copy of the Office Order No.68/94 dated 16.12.1994.
- 3. Annexure A3:** True copy of the Penalty Advice Order dated 2.6.1998.
- 4. Annexure A4:** True copy of the Appeal submitted by late P.M.Rahim.
- 5. Annexure A5:** True copy of the Order No.V/P.227/GI/HQ/Vol.iv dated 15.10.2001.
- 6. Annexure A6:** True copy of the Divorce agreement on mutual consent dated 20.09.2003 along with English Translation.
- 7. Annexure A7:** True copy of the Marriage Certificate issued by the Thuruth Muslim Jama-ath Committee along with English Translation.
- 8. Annexure A8:** True copy of the Representation submitted by Sri P.M.Rahim dated 07.03.2013.
- 9. Annexure A9:** True copy of the Death Certificate issued by the Registrar of Births and deaths.
- 10. Annexure A10:** True copy of the Representation submitted by the Applicant dated 09.02.2018.
- 11. Annexure A11 (A to E):** True copy of the birth certificate of the applicant's children.
