

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 287/2019

Reserved on 19.11.2019
Pronounced on : 22.11.2011

Hon'ble Ms. Aradhana Johri, Member(A)

Smt. Nandi Devi aged about 40½ years
(DOB 01.01.1978)
W/o Late Shri Anand Ram
Ex-CLTS S/o Late Shri Dev Ram who has died on 13.01.2003
while working as CLTS Gp 'D' post in RTS & Depot Hempur
under Dte. Gen of RVS (RV-1) QMG's Branch AHQ
Ministry of Defence
Permanent R/o Anand Nagar, P.O. RTC Hempur, Tehsil Kashipur
District Nainital (U.K.) presently staying in Flat No. F-402
Vaishali Ghaziabad (U.P.) in search of House Hold Job
Mob. No. 8433123200

... Applicant

(By Advocate :Mr. V.P.S. Tyagi)

Versus

1. The Union of India (Through Secretary)
Ministry of Defence, South Block, New Delhi – 110001.
2. The Director General of RVS (RV-1)
QMG's Branch AHQ, IHQ of MOD (Army)
West Block-III, R.K. Puram, New Delhi-110066.
3. The Controller General of Defence Accounts(CGDA)
Ulan Batar Marg, Palam Delhi Cantt – 110010.
4. The Commandant
RTS & Depot Hempur, Post RTC Hempur – 244716
Distt. Udham Singh Nagar (U.K)

...Respondents

(By Advocate :Mr. Subhash Gosai)

ORDER

Ms. Aradhana Johri :

Heard Mr. V.P.S. Tyagi, learned counsel for applicant and Mr. Subhash Gosai, learned counsel for respondents.

2. The applicant Smt. Nandi Devi is the widow of deceased Sh. Anand Ram S/o Sh. Dev Ram, who died on 13.01.2003 while working as Casual Labourer conferred Temporary Status (CLTS) in Remount Training School and Depot, Hempur, Udham Singh Nagar (Uttarakhand) under the respondents. Though

her gratuity has been sanctioned through a communication No. 129/12/F/RDH dated 05.11.2018 but leave encashment has not been sanctioned. The respondents have admitted to claim of the gratuity payable under Gratuity Act but have stated that since the applicant's husband was not regularised till the time of his death, she is not entitled to leave encashment.

3. The Hon'ble High Court of Delhi vide its order dated in WP (C) No. 2601/2018 allowed leave encashment to the widow of one Sh. Jai Prakash who was Casual Labourer with temporary status. The Hon'ble High Court held the following :-

“ 5. Temporary status would entitle the casual labourers to the following benefits:-

.....

III) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of works casual or any other kind of leave except maternity leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularization. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.”

9. The above provision, on its own reading is very clear and needs no interpretation. It clearly stipulates that for a casual labourer with temporary status, leave entitlement will be on a pro-rata basis @ of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, would not be admissible. The only bar as discernible from this para, for the grant of leave encashment, is on the contingency of termination or of an employee quitting the service. This para also entitles an employee, on regularization, to carry forward the leave at his credit. There is nothing in this provision which even remotely suggests that leave encashment will be given only on regularization, and that a temporary status employee will not be entitled to the same. It is an undisputed fact that the respondent's late husband had died and his services were neither terminated, nor he had quit the service. It would be travesty of justice, if this Court was to consider 'death' as a mode of 'termination' of service as the word is ordinarily understood in service jurisprudence. This Court thus finds that by virtue of Para 5 (III) of the OM dated 10.09.1993, respondent's husband was clearly entitled to leave encashment and the learned Tribunal has rightly allowed the OA granting the said benefit to the respondent. We thus find no infirmity in the judgment of the learned Tribunal.

10. There is no merit in the petition and same is hereby dismissed with no order as to costs. Pending application also stands disposed of accordingly.

11. Since the amount towards leave encashment has already been deposited in this Court, the registry is directed to release the said amount to the respondent alongwith accrued interest on the respondent taking necessary steps for its release.”

4. This case is covered by the above judgment. Accordingly, the OA is allowed and respondents are directed to sanction and pay leave encashment for leave that is due to the applicant within a period of three months from receipt of certified copy of this order. No costs.

(Aradhana Johri)
Member (A)

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