
(2025) 09 CAT CK 0449

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 811 Of 2012

Ram Rati Devi

APPELLANT

Vs

Union Of India Through General Manager, North Central
Railway, H Q Subedargaj, Allahabad & Ors.

RESPONDENT

Date of Decision : 12-09-2025

Acts Referred:

Citation : (2025) 09 CAT CK 0449

Hon'ble Judges : Om Prakash - VII, Member (J)

Bench : Single Bench

Advocate : Santosh Kumar Kushwaha, Shiv Kumar, Bashist Tiwari

Final Decision : Dismissed

Judgement

Om Prakash VII, Member (J)

1. Shri Santosh Kumar Kushwaha, learned counsel for the applicant and Shri Bashist Tiwari, learned counsel for the respondents, were present at the time of hearing.

2. The instant original application has been filed by the applicant seeking following relief:

“(i) The Hon’ble Tribunal may graciously be pleased to call for the service book (Service record) and Leave Account Late Dilraj son of Late Ram Lakhan and quash and set aside the impugned order dated 07.10.2011 passed by DRM, NC Railway Allahabad (Annexure A-1) along with the previous impugned order dated 30.11.2010 (Annexure A-2) and order of General Manager dated 22.06.2012 communicated vide letter dt. 03.07.2012 (Annexure A-2/A) to the extent of denial of granting family pension, passed earlier without jurisdiction and in violation of the direction of the order of this Hon’ble Tribunal dated 01.12.2009.

(ii) The Hon’ble Tribunal may further be pleased to direct the respondents to grant family pension and other settlement dues giving similar benefits of the

orders as given in cases of Smt. Chheddi Devi urf Jagadaiya & Smt. Mandodari Devi by the same respondents being identically situated cases.

(iii) The Hon'ble Tribunal may further be pleased to direct the respondents to grant interest on delayed payment of family pension and other settlement dues which would accrue to her on granting family pension and settlement dues.

(iv) Any other writ or order or direction which the Hon'ble Tribunal deems fit and proper in the circumstances of the case may also kindly be issued in the interest of justice.

3. The instant original application has been filed by the applicant seeking quashing of the order dated 27/28.04.2022 issued by CMS / JHS and another order dated 05.03.2024 issued by PCMD by way of which the applicant's request for medical reimbursement of the amount which the applicant claims to have paid for the medical treatment of his wife, has been rejected by the respondents. Applicant has sought a direction to the respondents' authorities to pay Rs. 3,74,548/- with admissible interest as reimbursement of medical bills.

4. I have heard learned counsel for the parties and perused the records.

5. Learned counsel for the applicant submitted that the applicant's husband died during the service period. The applicant applied for pensionary benefits and family pension and also for compassionate appointment but the respondents did not allow the same. It is further argued that applicant had approached before this Tribunal through OA No. 1248 of 1999 and the same was dismissed on merit. The applicant again approached before the respondents but no heed was paid to her request. Thereafter, the applicant filed OA No. 398 of 2005 and vide order dated 23.07.2007, order passed in OA no. 1248 of 1999 was recalled and an order was passed to decide the OA No. 1248 of 1999 as well as OA No. 398 of 2005 together. It was further argued that both the aforesaid OAs were decided vide order dated 01.12.2009 directing the applicant to file a comprehensive representation which will be decided by the respondents by passing a reasoned and speaking order. It was next argued that in compliance of the direction given in the aforesaid OAs, the applicant submitted a comprehensive representation on 19.12.2009 and 26.04.2010. The respondents vide order dated 07.10.2011 rejected the prayer of the applicant again observing that the applicant's husband's services had not been regularized and he died before the regularization and thus the applicant was not in the roll of the employees. Referring to the observation recorded in the impugned orders, it was further argued that in OA No. 1248 of 1999, initially the plea was taken by the respondents that applicant's husband's services had been terminated. Since in the aforesaid OA, the termination order has not been challenged and due to this reason, the OA was dismissed. In the OA No. 398 of 2005, when the applicant challenged the termination order, order passed in the OA No. 1248 of 1999 was recalled and subsequently the respondents had taken plea that applicant's husband was absconding without sanctioning of leave and thus, he himself has

abandoned the services. It was also pleaded that applicant's husband was not on the roll of the employees employee. Referring to the aforesaid fact, it was further argued that applicant's husband was engaged in the respondents' department initially in the year 1997 as casual gangman. Later on, he was appointed as gangman and was transferred between different places as would be clear from Annexure A – 3 in which a number of employees were transferred and applicant's name is at sl no 48 in which the date of appointment is shown as 14.07.1984 and pay scale is shown as Rs. 2006/- per month. Chart contained in Annexure No A – 3 also reveals that Railway pass has also been issued in favour of the applicant. It is also argued that applicant's husband was again transferred vide Annexure No A-4. Referring to the list contained at pg 46, it was further argued that applicant's name in this list is at sl no 29 in which again date of appointment as 14.07.1984 and salary is shown as Rs. 775/- per month and casual leave is shown as 15. Referring to the aforesaid fact, it was further argued that the applicant was a regular employee of the respondents' department. The respondents again denied the benefit of family pension as well as compassionate appointment on the ground that no record is available in the department. It was further argued that respondents are the custodian of the records and they should have maintained the same. The again asked the applicant to submit the service record. Thus, argued that stand taken by the respondents is self contradictory. At one stage in the OA, they have taken plea that applicant's husband's services have been terminated but in the subsequent OA, they have taken the stand that applicant's husband had himself abandoned the services. It is also argued that even if the plea taken by the respondents is taken into consideration then also as per the documents referred hereinabove, it is clearly established that the applicant was an employee of the respondents' department. Thus, impugned orders passed in the matter are illegal and are liable to be quashed and the OA be allowed and respondents be directed to grant the relief claimed in the matter.

6. Learned counsel for the respondents argued that applicant's husband was unscreened and was never regularized. Family of the casual labour with temporary status is also not entitled for family pension. It is argued that applicant's husband was absconding from duty and thus he himself has abandoned the services. Referring to the contents of the counter affidavits, it was further argued that since applicant's husband was not in a roll of employees and he himself had abandoned his services and during this period he died, thus relief claimed in the matter is not liable to be allowed.

7. Rejoinder has been filed by the applicant reiterating the facts and circumstances of the case as have been narrated in the OA. Learned counsel for the applicant has also submitted that even if for a moment this fact be taken into consideration that applicant's husband has not been regularized nor he was granted temporary status then also, applicant's husband has served for more than one year in the respondents' department therefore, being a temporary employee, legal heir of the deceased employee are entitled for family pension. To substantiate this case, learned counsel for the applicant has placed reliance upon

the following case laws:

- i. Judgment dated 19.11.2008 passed by the Hon'ble High Court of Allahabad in Civil Misc Writ Petition No 32926 of 2007 titled Union of India and another Vs Prema alias Premawati Devi and another.
- ii. Judgment dated 24.02.2011 passed by the Hon'ble High Court of Allahabad in Civil Misc Writ Petition No 23874 of 2008 titled Union of India Vs CAT and others.
- iii. Judgment dated 10.09.2008 passed by the Hon'ble High Court of Allahabad in Civil Misc Writ Petition No 45678 of 2008 titled Union of India and others Vs Smt Chheddi Devi.
- iv. Judgment dated 18.08.1997 passed by the Ernakulam Bench of Central Administrative Tribunal in OA No 1268 of 1996 titled M G Remani Bai Vs Union of India and others.
- v. Judgment dated 16.11.1995 passed by the Hon'ble Supreme Court of India in Civil Appeal No 10492 of 1995 titled Prabavati Devi Vs Union of India and others.
- vi. Judgment dated 06.09.1990 passed by the Hon'ble Supreme Court of India in Civil Misc Petition No. 31378 of 1988 titled Ram Kumar & Ors Vs Union of India & Ors.
- vii. Judgment dated 14.11.2024 passed by the Hon'ble High Court of Allahabad in Writ A No 31358 of 2021 titled Dr Prabhanshu Srivastava Vs State of UP Through Principal Secretary Medical Health And Family And Ors.
- viii. Judgment dated 16.07.2025 passed by the Hon'ble Supreme Court of India in Civil Appeal No 10672 of 2016 titled Mala Devi Vs Union of India and others.
- ix. Judgment dated 25.08.2025 passed by the Hon'ble High Court of Punjab and Haryana in CWP 8995 of 2019 titled Union of India and others Vs Central Administrative Tribunal, Chandigarh and others.

Similarly, learned counsel for the respondents has relied upon following case laws in support of his case:

- i. Judgment dated 12.12.2007 passed by the Hon'ble Supreme Court of India in Civil Appeals No 5833 of 2007 with No. 5839 of 2007 titled General Manager, North West Railway, And Others Vs Chanda Devi.
- ii. Judgment dated 09.11.2012 passed by the Allahabad Bench of Central Administrative Tribunal in OA No. 362 of 2012 titled Karuna Devi Vs Union of Indian and others.

8. I have considered the rival contentions and perused the records and also carefully gone through the case laws relied upon by the learned counsel for the parties.

9. As the brief facts of the case have already been narrated above, the same are

not reiterated for the sake of brevity.

10. Respondents' stand in rejecting the claim of the applicant is that the applicant was unscreened and was not regularized. A plea has also been taken that family of the casual labour with temporary status could not be allowed the family pension. It is also evident from the record that in the first OA, the respondents have taken the plea that applicant's husband services have been terminated. When OA No.398 of 2005 was filed a different stand was taken by the respondents that the applicant himself has abandoned his services. A plea has also been taken that the applicant is not on the roll of the employees. It is also clear from the record that the applicant has died during unauthorized absence. Respondents have been changing their stand stage to stage. Applicant's stand is that her husband was appointed in the year 1977 and on completion of 120 days of continuous service, he attained the status of temporary railway employee and was appointed in 1981 in the PWI / Northern Railway Mirzapur in maintenance department and since then he was working continuously till his death. He has also been sent for medical examination and he was found fit in B-1 category and due to this reason, the post of Gangman was allowed to him. To substantiate this argument, learned counsel for the applicant has also placed reliance upon the Annexure A-3 and A-4 of the OA.

11. Now the question is whether applicant's husband was regular employee of the respondents' department and has been allowed temporary status or not. It is also to be decided as to whether the applicant who is the widow of the deceased employee is entitled for family pension or not.

12. Hon'ble Supreme Court of India in the case of Chanda Devi (supra) has held in para 31 as under:

"The Gujarat High Court in our opinion therefore, committed a fundamental error in opining otherwise. It failed to notice that when casual labour has been excluded from the definition of permanent or temporary employee, he with temporary status could not have become so and there is no legal sanction therefor. It is for the legislature to put the employees to an establishment in different categories. It may create a new category to confer certain benefits to a particular class of employees. Such a power can be exercised also by the Executive for making rules under the proviso appended to Article 309 of the Constitution of India. *Dakshin Railway Employees Union, Trivandrum Division Vs. General manager, Souther Railway and Others* [(1987) 1 SCC 677] whereupon reliance has been placed by the Gujarat High Court in *Rukhiben Rupabhai* (supra) does not lead to the said conclusion as was sought to be inferred by it. The question therein was as to whether any direction was to be issued to include the petitioners therein in the scheme for absorption as formulated pursuant to the directions of the Court."

The document enclosed as Annexure A-3 which is the transfer order dated 06.07.1987 issued by the PWI / Madhya East / Northern Railway, Kanpur in

which the applicant's husband was placed at sl no 48, clearly discloses that the applicant was appointed on 14.07.1984 and salary fixed was Rs. 206/- per month. One set of pass has also been issued in favour of the applicant. Similarly, in another transfer list issued on 23.05.1989 as Annexure A-4 also reveals that applicant is placed at sl no 29 and date of appointment is shown as 14.07.1984. In the next column i.e., relating to casual leave due is also shown. If Annexure No A-3 as well as A-4 of the OA are taken together, along with submissions raised across the Bar, it is clear that as per the applicant, her husband has been allowed temporary status. Hon'ble Supreme Court of India in the case of Chanda Devi (supra) has clearly held that if a casual labour with temporary status dies, his legal heirs are not entitled for family pension. Submissions raised on behalf of the applicant are that if applicant's husband's services are also deemed to be temporary, then also the applicant is entitled for family pension. In support of his submissions, learned counsel for the applicant has placed reliance on certain paragraphs of Railway manuals. In this respect, it is clarified at this stage that a temporary employee and a casual labour with temporary status have distinct definition and both cannot be counted at par with each other as far as aspects of the services are concerned. A temporary employee is appointed against a regular vacancy although his services are not confirmed but in case of a casual labour with temporary status, his cannot be treated as temporary employee. Reference in this respect can be taken from the law laid down in Chanda Devi (supra) case.

13. Furthermore, the case laws relied upon by the applicant's counsel cannot be held in favour of the applicant's case. In the case of Mala Devi (supra) relied upon by the learned counsel for the applicant, the Hon'ble Supreme Court has granted the benefit of family pension considering the applicant therein as temporary railway servant with a continuous service of one year. As has already been discussed above, the case of the husband of the applicant herein, who was just given the temporary status, cannot be equated and taken at par with a temporary railway servant simply because there is a difference between a temporary railway servant and an employee with temporary status. Furthermore, the respondents' contention that the applicant's husband was unscreened and was never granted regularization also cannot be ignored. Even if the applicant's husband herein was granted temporary status, what was protected by conferring temporary status upon a casual employee was his service and by reason thereof the Pension Rules were not made applicable. This has also been explicitly held by the Hon'ble Supreme Court of India in the case of Chanda Devi (supra). For the aforesaid reason itself and on the strength of the ratio laid down by the Apex Court in the case of Chanda Devi (supra), the other judgments and case laws relied upon by the learned counsel for the applicant also do not support the case of the applicant by any extent.

14. Thus, taking into consideration the law laid down by the Hon'ble Supreme Court of India in the case of Chanda Devi (supra), the submissions raised on behalf of the applicant's counsel are not acceptable and thus she cannot be allowed family pension. The instant OA is liable to be dismissed and the same is

accordingly dismissed being devoid of merits. All associated MAs stand disposed of. No costs.