

(2016) 02 P&H CK 0142
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 16525 of 2014

Roshni

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 24-02-2016

Acts Referred:

Railway Services (Pension) Rules, 1993 — Rule 18, 75

Citation : (2016) 2 PLR 411 : (2016) 4 RSJ 156 : (2016) 2 SCT 756

Hon'ble Judges : M. Jeyapaul; Raj Mohan Singh, JJ.

Bench : Division Bench

Advocate : Pankaj Kansal for D.R. Sharma, Advocates, for the Appellant;
Karamjeet Verma, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Raj Mohan Singh, J. - The writ petitioner Roshni was the wife of deceased Ram Kishan who was appointed as a Casual Labour on 9.1.1984, granted temporary status and grade on 1.7.1985 and expired on 20.10.1994. He was serving as Casual Labour Gangman with temporary status at the time of his death. He left behind his wife, a minor son and a daughter. The writ petitioner was appointed as a Casual Labour on compassionate grounds.

2. The Tribunal rejected the claim of the writ petitioner for family pension on the ground that Rule 18 of the Railway Service (Pension) Rules, 1993 mandates 10 years of temporary service of an employee who died in harness for the family members to get family pension.

3. It was submitted by learned counsel appearing for the writ petitioner that Rule 18 of Railway Service (Pension) Rules, 1993 would apply only to temporary Railway servants who retired on superannuation. It is his submission that as per Rule 75(2)(a) of Railway Service (Pension) Rules, 1993, the family members of a deceased employee who has completed 1 year of continuous service is entitled to family pension. Even otherwise, an employee who has put in 3 years of

continuous service with temporary status shall be treated at par with temporary Grade-D employee and thereby, entitled to all benefits as are admissible to Group-D employees on regular basis.

4. Learned counsel for the respondents submitted that as per Rule 18 of the Railway Service (Pension) Rules, 1993, a temporary employee should have put in 10 years of service for his family to get family pension. It is his further submission that Rule 75 of the above Rules would not apply to the employee who have been accorded only temporary status.

5. We thoroughly perused Rule 18 and 75 of the Railway Service (Pension) Rules, 1993. There is no dispute to the fact that the husband of the writ petitioner, namely, Ram Kishan was serving as a Casual Labour Gangman with temporary status at the time when he died on 20.10.1994. After deducting the leave he had taken without pay, the Department has calculated the temporary service of Ram Kishan as 8 years and 8 days. In other words, when Ram Kishan died in harness, he had put in 8 years and 8 days of service. The question is whether the family members of a temporary employee who had just put in 8 years and 8 days of service and died in harness are entitled to family pension.

6. In our considered view, Rule 75 of the Railway Service (Pension) Rules, 1993 will apply only to Railway servants entering regular service in a pensionable establishment on or after 1.1.1964. In other words, the writ petitioner cannot claim for pension on the demise of her husband who had not entered into regular service in the pensionable establishment of the respondents at the time when he died in terms of Rule 75.

7. As rightly pointed out by learned counsel appearing for the respondents, only Rule 18 of the Railway Service (Pension) Rules, 1993 would apply to the temporary Railway servants. As per Rule 18(1) of the Railway Service (Pension) Rules, 1993, a temporary Railway servant who retires on superannuation after having rendered not less than 10 years of service shall be eligible for grant of pension and his family members for family pension on his death. Though death of a temporary Railway servant was not specially adverted to in Rule 18(1) of the Railway Service (Pension) Rules, 1993, we will have to construe that the requirement of 10 years service for temporary Railway servant who retires on superannuation is applicable to the family members who claim family pension on the death of Railway Servant who died in harness. In other words, if a temporary Railway servant has put in 10 years of service at the time of his retirement or at the time when he dies in harness, he is entitled to pension or on his death, his family is entitled to family pension.

8. Rule 18(3) of the Railway Service (Pension) Rules, 1993 speaks of the scope of family pension which shall be granted to the family members of the temporary employee who died in harness on the same scale admissible to families of permanent Railway servants. But, at any rate, the above Rule 18(3) does not fore-go the required period for getting family pension on the death of a

temporary employee during service as contemplated under Rule 18(1).

9. For all these reasons, we find that there is no merit in the writ petition. Therefore, the same stands dismissed.