

(2019) 11 UK CK 0150
In the Uttarakhand High Court
Case No : Writ Petition No. 533 Of 2019 (S/B)

Union Of India & Others

APPELLANT

Vs

Central Administrative Tribunal And Another

RESPONDENT

Date of Decision : 20-11-2019

Acts Referred:

Citation : (2019) 11 UK CK 0150

Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Kumar Verma, J

Bench : Division Bench

Advocate : G.K. Verma

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. Heard Mr. G.K. Verma, learned counsel for the petitioner.
2. This writ petition is filed questioning the order passed by the Central Administrative Tribunal in O.A. No.331/00402/2004 dated 20.02.2019. The second respondent herein invoked the jurisdiction of the Central Administrative Tribunal to set aside the order passed by the General Manager, Northern Railway dated 27.03.2012/003/10.04.2003, and for a direction to appoint the petitioner in a class IV post in the Railway Department on the basis of the Dying-in-Harness Rules as her husband expired on 15.06.1990, in a rail accident, while in service.
3. The petitioner's case before the Tribunal was that her husband was engaged as a daily casual labour Khalasi by the Railways, and was later made a temporary Khalasi on 01.01.1984. He expired on 15.06.1990, in a rail accident, while in service. Before the Tribunal, the learned counsel for the applicant confined his argument only to the grant of family pension and sought a direction for the order passed by the General Manager, Railways, rejecting the applicants' claim for family pension to be quashed. In its order impugned in the writ petition, the Tribunal noted that the respondents, in their counter affidavit, had admitted that the

husband of the applicant was appointed as a labour Khalasi on 15.09.1980, he was granted temporary status on 01.01.1984, and he expired more than six years thereafter, in a rail accident, on 15.06.1990; and a sum of Rs.5,475/- as gratuity, and Rs.1036/- for leave encashment, was paid to the applicant.

4. After taking note of the fact that the applicant's husband was granted temporary status in 1984, the Tribunal relied on the judgment of the Supreme Court, in Prabhavati Devi Vs. Union of India : AIR 1996 SC 752, and set aside the order passed by the General Manager on 27.03.2003. The OA was allowed and the respondents were directed to calculate pension, and issued family pension benefits, with arrears thereof, to the applicant along with interest @ 7% per annum from the date of pension till the date of payment. The respondents were also directed to comply with the order within one month.

5. In its order in Prabhavati Devi (as is evident from the order extracted by the Tribunal), the Supreme Court noted that the deceased had worked beyond a period of six months as a temporary railway servant, and he became entitled for family pension under sub-rule 3(b) of Rule 2311, wherein it was provided that the widow/minor children of a temporary Railway servant, who dies while in service after a service of not less than one year continuous qualifying service, shall be eligible for family pension under the provisions of para 801 of the Manual of Railway Pension Rules. The Supreme Court held that, on acquisition of temporary status by the deceased, family pension could not be denied to the widow and children.

6. In the present case, the husband of the respondent/applicant had worked more than 6 years as a temporary Railway servant i.e. from 01.01.1984 till 15.06.1990. In the light of the law laid down by the Supreme Court, in Prabhavati Devi, his widow/minor children would undoubtedly be entitled for family pension.

7. It is not even contended before us by Mr. G.K. Verma, learned counsel for the petitioner, that the judgment of the Supreme Court, in Prabhavati Devi, is not applicable to the case on hand. The Tribunal has, in our view rightly, relied on the judgment of the Supreme Court, in Prabhavati Devi, in granting the second respondent relief. We see no reason to interfere with the order of the Tribunal, as the certiorari jurisdiction of this Court can only be invoked if the order of the Tribunal suffers from an error of law apparent on the face of the record (Syed Yakoob vs. K.S. Radhakrishnan : AIR 1964 SC 477). No error, much less an error of law apparent on the face of record in the order of the Tribunal, has been brought to our notice.

8. We see no reason, therefore, to interfere with the order of the Tribunal. The Writ Petition fails and is, accordingly, dismissed. No costs.