
(2023) 03 CAT CK 0063

In the Central Administrative Tribunal

Case No : Original Application No. 1280 Of 2012

Urmila

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 28-03-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 03 CAT CK 0063

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

Bench : Single Bench

Advocate : S.K. Pandey, Mahendra Prasad Mishra

Final Decision : Dismissed

Judgement

Om Prakash-VII, Member (J)

1. The present O.A has been filed by the applicant under section 19 of Administrative Tribunal Act, 1985 with the prayer for directing the respondents to release family pension to the applicant under Family Pension Rules, 1964.

2. The brief facts of the case are that the applicant is the wife of late Ram Babu who was working as Monthly Rated Casual Labour (hereinafter will be denoted as MRCL) under Permanent Way Inspector (North), Lalitpur, Jhansi Division. It is stated that provident fund was also contributed from the salary of the applicant's husband and medical care and railway passes were also issued in favour of the deceased. Unfortunately, husband of the applicant was died on 27.5.1996. After the death of her husband, applicant was appointed in Group D service on compassionate ground. After the death of her husband, applicant has approached the department for release of family pension. Applicant lastly made a representation on 17.10.2011 but the same has not been disposed off till date. It is further stated that the department has allowed family pension to the wife of Shri Bal Kishan, ex-gangman Dabra who died on 5.10.1998 and who is similarly situated employee (working as MRCL).

3. Learned counsel for the respondents has submitted that the O.A. has been filed with long delay and as such is liable to be dismissed on the ground of limitation. It is further submitted that applicant's husband was MRCL till death. He was not regularized as regular employee, so applicant is not entitled for family pension because the MRCL's wife is not entitled for family pension. It is further submitted that Shri Balkrishan was working as regular and confirmed Gangman, so her wife was eligible for family pension whereas Sri Ram Babu was working as MRCL and not confirmed till his retirement, so case of Balkrishan is different to the case of Shri Ram Babu.

4. Heard the learned counsel for the parties.

5. Learned counsel for the applicant submitted that since the husband of the applicant was working as MRCL and according to pension rules, applicant is entitled for family pension as has been granted to wife of the similarly situated MRCL employee Shri Balkrishan. It is further submitted that MRCL is defined as Temporary Railway servant according to Railway Establishment Manual.

6. Learned counsel for the respondents submitted that husband of the applicant was working as MRCL hence his wife is not entitled for family pension. It is further stated that Shri Balkrishan was regular and confirmed Gangman, hence after his death, family pension was allowed to her wife. It is further submitted that applicant has been appointed as substitute and not on the compassionate ground. Hence, applicant is not entitled for family pension.

7. I have considered the rival submission of the learned counsel for the parties and have gone through the entire record.

8. It is admitted by the applicant that her husband was working as MRCL and has expired on 27.5.1996. It is also admitted fact that till the death he was not confirmed or regularized. After the death of the deceased employee, the department had rejected the claim of the applicant for compassionate appointment vide order dated 10.8.1998 on the ground that deceased Ram Babu was not a regular employee because he had been appointed as Casual Labour under PWI , Lalitpur on 3.12.1980 on the basis of alleged forged casual labour card. During the life time of the deceased, a charge sheet was also served on him on 26. 8.1988, but the departmental proceeding could not be finalized against the deceased during his life time because the Ram Babu had expired on 27.5.1996. Applicant had filed O.A. No. 1208/1999 for quashing the order dated 10.8.1998 and for direction to give Compassionate appointment to the applicant in Group D post which was disposed off vide order dated 11.1.2001 and Tribunal directed the department to reconsider the case of the applicant for appointment on compassionate ground. Thereafter, the department had engaged the applicant as substitute vide letter dated 3.10.2001 in the department in place of her husband. In the Supplementary Counter Affidavit, learned counsel for applicant has stated that applicant has been given as Group D fresh face substitute employee vide letter dated 29.6.2001. It is admitted fact that deceased was died

as MRCL employee and Railway Rule does not provide that MRCL employee is entitled for pension. Learned counsel for applicant has failed to produce any rule which provides that MRCL employee is entitled for family pension. Hence, the Court is of the view that applicant is not entitled for family pension, because her husband was only MRCL till his death and O.A. is liable to be dismissed

9. Accordingly, O.A. is dismissed.

10. There shall be no order as to costs.