



Reportable

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Civil Writ Petition No. 914/2002

CNR: RJHC010190562001 | URN: CW / 2349U / 2002

Smt. Alma W/o Late Shri Hasam Khan, resident of Kalaji Ki Dhani, Ward No.24 via Pipar Road, Jodhpur, her husband was last employed on the post TS Gangman under I O W Jodhpur, Northern Railway.

----Petitioner

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur
3. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur

----Respondents

Connected With

D.B. Civil Writ Petition No. 2298/2001

CNR: RJHC010177482001 | URN: CW / 5004U / 2001

Smt. Sukan Kanwar W/o Late Devi Singh, resident of village and post Samdari, District Barmer (her husband was last employed on the post of substitute Khallasi in the office of Carriage and Wagon Samdari, District Barmer Northern Railway).

----Petitioner

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur
3. Divisional Mechanical Engineer (Carriage & Wagon), Northern Railway, Jodhpur Division, Jodhpur

----Respondents

D.B. Civil Writ Petition No. 4507/2001

CNR: RJHC010170822001 | URN: CW / 9965U / 2001

Smt. Amtul W/o Late Aamin, resident of Chakariya Ki Hotel, near Bhagat Ki Kothi Railway Station, Jodhpur, her husband was last employed on the post of TS/Graded Fitter under I O W (D),



Bhagat Ki Kothi, Jodhpur, Northern Railway.

-----Petitioner

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur
3. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.

-----Respondents

For Petitioner(s)	:	Mr. J. K. Kaushik Mr. Avdhesh Parashar
For Respondent(s)	:	Mr. Prakash Choudhary, Sr. Panel Counsel for UOI Mr. Vikram Choudahry Mr. Shyam Charan Mr. Dhanraj Vaishnav through V.C. Ms. Urmila Chouhan Mr. Deepak Bansal

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE MUNNURI LAXMAN

Judgment

17/09/2026

Vinit Kumar Mathur, J.

1. The present matters were referred to the Larger Bench of this Court vide order dated 15th November, 2003 as the Division Bench was of the opinion that judgment passed by the Coordinate Division Bench of this Court in the case of **Smt. Somati Dai Vs. Union of India & Ors.** reported in **RLW 2001 (1) Raj. 595** requires reconsideration.



2. Briefly noted the facts of the present case are that the petitioners are the widows of the Railway employees, who were working in the respondent department on the posts of casual Gangman, substitute Khallasi and TS/Graded Fitter and while they were serving in the Railway department, they passed away. After the death of the petitioners' husbands, they approached to the respondent department for grant of pension. However, the same was denied to them, and therefore, they approached to the Central Administrative Tribunal, Jodhpur by way of filing Original Applications. The Original Applications filed by the petitioners were rejected vide order dated 18th February, 2000. Aggrieved by the order dated 18th February, 2000, the petitioners preferred the writ petitions before this Court. This Court after hearing the counsel for the parties, referred the matters before the Larger Bench opining that the judgment passed in Somati Dai (supra) requires reconsideration.

3. This is how the matters are before us after constitution of the Larger Bench by Hon'ble the Chief Justice.

4. Learned counsel for the parties submit that the controversy involved in the present matters is decided by the Hon'ble Supreme Court in the case of **General Manager, North West Railway & Ors. Vs. Chanda Devi (2008) 2 SCC 108**, wherein similar question came up for consideration before the Hon'ble Supreme Court and the Hon'ble Supreme Court held as under:-

"24. The contrast between a casual labour having a temporary status and a temporary servant may immediately be noticed from the definition of a



temporary railway servant contained in Rule 1501 occurring in Chapter XV of the Manual:

"1501.(i) Temporary railway servants

Definition- A 'temporary railway servant' mean a railway servant without a lien on a permanent post on a railway or any other administration or office under the Railway Board. The term does not include 'casual labour', including 'casual labour with temporary status', a 'contract' or 'part-time' employee or an 'apprentice'."

5. The Hon'ble Supreme Court thus held that the Manual should be given effect to as it governs the terms and conditions of the services of the employees working under the railway administration. A scheme when engrafted in a rule must be read in the context in which the same was done. This Court while accepting the scheme, nowhere suggested that the amendments made in the Manual would be of no effect.

6. In this view of the matter, the question raised by the Division Bench of this Court vide order dated 15th November, 2003 is answered by the Hon'ble Supreme Court, and therefore, the view taken by the Division Bench in the case of Somati Dai (supra) is just, proper and correct while rejecting the writ petitions, though the Division Bench has relied upon para 2311 (3)(b) of the Indian Railway Establishment Manual (for short, 'the Manual'). However, the earlier Division Bench has not noticed para 1501 of the same Manual, which squarely applies to the facts and circumstances of the present case.

7. Ordinarily we could have remanded the matters to the writ Court for deciding issue, but, in view of the aforesaid judgment of the Hon'ble Supreme Court and in view of para 1501 of the Manual, since the petitioners are widows of the casual labour with





temporary status in railway establishment, who died while in service before appointment to a temporary post and were not temporary railway servant within the meaning of para 1501 of the Manual, therefore we are of the opinion that the petitioners are not entitled for any pensionary benefits.

8. Consequently all the writ petitions are dismissed.

(MUNNURI LAXMAN),J (VINIT KUMAR MATHUR),J (SANJAY K. AGRAWAL),CJ

1/Anil Asopa