

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 358/2002

This the 5th day of February, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Mrs. Kaveri A Rao
aged about yrs.
w/o Late Sh. F.A.Rao,
Ex-Chief Engineer SE Rly.,
Resident of C/o Major Ashok Kini H.SM,
C-204 Sangli Apartment, Copernicus Marg,
New Delhi-110001.

(By Advocate: Sh. T.S.Pandey with
Sh. H.P.Chakravarty)

Versus

Union of India through
The Chairman, Railway Board,
The Principal Secretary,
To Government of India,
Ministry of Railways,
Rail Bhawan, New Delhi.

(By Advocate: Sh. R.P.Aggarwal)

ORDER

By Sh. Kuldip Singh, Member (J)

This OA has been filed by a widow of retired employee of the Railways who is impugning Annexure A-1. The order passed by the PS to Minister of State for Railways whereby applicant has been denied the grant of family pension.

2. Facts as alleged by the applicant in brief are that the husband of the petitioner retired in the year 1969 in the month of September. He was a Member of State Railways Provident Fund Scheme which had a provision for a Contributory PF. Applicant claims that her husband had submitted a claim for pension, i.e., change over from Contributory Provident Fund to pension scheme, in terms of orders of the Supreme Court and Govt. of India's decision thereon arguing for options from time to time. She further claims that though the option was submitted within time but all in vain.

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3. After the expiry of her husband, the petitioner also applied for grant of family pension but she was granted ex gratia amount at the fixed rate and she was told that the deceased was not pension optee and later on when she came to know that her husband already applied for a change from CPF to pension scheme in terms of the Govt. of India's instructions and Railway Board circular in the year 1987 and the same was under consideration. It is further stated that the case being old one, it appears that for want of record, the change over has not been granted. It is further stated that in the month of October, 1997 the petitioner submitted detailed representation which was forwarded by the National Federation of Railway Employees Pensioners, Vishakhapatnam letter dated 7.11.97 but to no effect. Applicant also alleges that Railway Board had issued orders dated 26.7.85 vide Annexure A-8 on the basis of which the applicant is also entitled to family pension. It is also submitted that case of applicant is similar to that of one K.V.Kasturirangan, the CRPF retiree who retired as Ex Addl. Member Staff of Railway Board and as such applicant is also entitled to similar treatment.

4. OA is being contested by the respondents. Respondents in their reply admitted that the applicant's husband retired from service on 6.1.69 as a SRPF optee. Further his retirement dues was settled in the year 1969 and the applicant wants to reopen the same which is time barred and as such it is liable to be dismissed. As regards comparison of K.V.Kasturirangan's case is concerned, the respondents submitted that Sh. Kasturirangan has retired from Railway on 14.3.73 and he was allowed to shift over to pension scheme as the Hon'ble Minister was of the view that Sh. Kasturirangan was not informed about the pension scheme whereas it is not the plea

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of the applicant that her husband was not informed of the scheme w.e.f. 6.9.1969. Thus, the case of the applicant is distinguishable from the case of Sh. Kasturirangan. On the contrary the respondents quoted various cases where SRPF retirees who did not opt for pension but denied to shift over the pension scheme. It is submitted that the case of the applicant is misconceived and the same is liable to be dismissed. It is specifically denied if any application from Sh. Rao was received during his service time or from his date of retirement for change over to CRPF pension scheme. I have heard the learned counsel for the parties and gone through the record.

5. Counsel for applicant submitted that since Sh. K.V. Kasturirangan was allowed to switch over to pension scheme the applicant's case is also similar and applicant should also be allowed. It is further submitted that the applicant had opted for such switching over to the pension scheme but it could not be done in his life time so the applicant's wife should be allowed the benefit of family pension scheme. Counsel for applicant has also relied upon Annexure A-8 which is a letter issued by the Railway Board on 26.7.85 and submitted that on the basis of this, applicant is entitled to switch over to the family pension scheme.

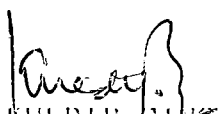
6. I have given my thoughtful consideration to the issue involved. The perusal of Annexure A-8 also shows that a person has to opt for family pension scheme and has to make a request for change over from SRPF(C) to family pension scheme. The main objection raised by the respondents is that in this case as per record no option has ever been exercised by the respondents. I may also mention that before rejection of

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request by the Minister, department itself vide a detailed order dated 4.10.99 had rejected the request of the applicant. In the said letter also it was made clear that late Sh. J.A.Rao had not exercised the pension option either during his service time or thereafter but not later than 31.1.73, so you fall in the category of widows of pre 1.1.86 SRPF(C) retirees who are eligible for grant of ex-gratia only which has already been done in this case.

7. Thus, I am of the considered opinion that the applicant is not eligible for grant of family pension as her husband had not exercised option during his service or within the stipulated period. As far comparison with the case of Sh. Kasturirangan is concerned, in the case of Sh. Kasturirangan it was found that he was not properly intimated about the scheme for shifting from SRPF(C) to family pension scheme but in the case of applicant, it is her case that her husband did apply for change over which is not found to be correct from the record. Thus, the case of the applicant is clearly distinguishable from that case of Kasturirangan.

8. Hence, I find that OA has no merits and same is liable to be dismissed. Accordingly, OA is dismissed.


(KULDIP SINGH)
Member (J)

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