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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH, CALCUTTA

O.A. No. 350/1710 of 2016

MA No. 350/361/2017

In the matter of :

Benu Banik, aged about 56 years, daughter of
Late Prakash Chandra Banik, who retired from
service as Ex-Shunting Master/GHZ (Garhara)
under the Divisional Railway Manager, East
Central Railways, Sonpur Division, Bihar,
Pin – 841101 and residing at Village – Bholardabri,
Post Office – Alipurduar Junction, District –
Jalpaiguri, Pin – 736123;

..... Applicant

- Versus -

1. Union of India, service through the Secretary,
Ministry of Railways, Government of India,
Rail Bhawan, Raisina Road, New Delhi -110001.
2. The General Manager, East Central Railways,
Indian Railways, Hajipur, Vaishali, Bihar ,
Pin – 844101;

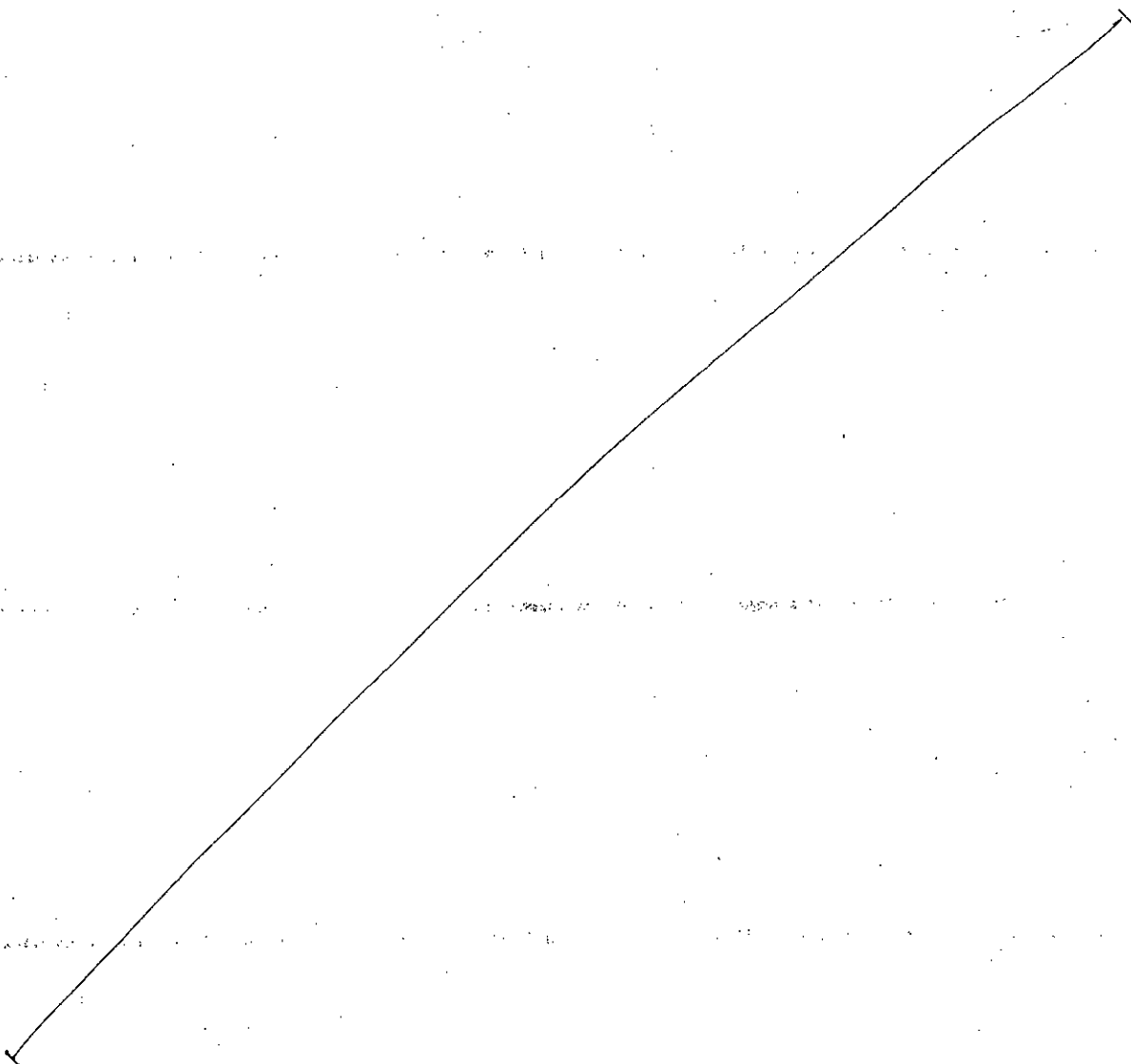
3. The Chief Personnel Officer, East Central
Railways, Indian Railways, Hajipur, Vaishali,
Bihar, Pin – 844101;

4. The Divisional Railway Manager, East Central
Railways, Sonpur Division, Indian Railways,
Saran, Bihar, Pin – 841101;

5. The Senior Divisional Personnel Officer,
East Central Railways, Indian Railways,
Hajipur, Vaishali, Bihar, Pin – 844101'

6. The Divisional Finance Manager, East Central
Railways, Sonpur Division, Indian Railways,
Saran, Bihar, Pin – 841101.

..... Respondents



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/1710/2016
M.A.350/361/2017

Date of order : 4.5.2016.

**Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**BENU BANIK
VS.
UNION OF INDIA & OTHERS
(EAST CENTRAL RAILWAY)**

For the applicant : Mr. P.C. Das, counsel
Ms. T. Maity, counsel

For the respondents : Mr. P. Prasad, counsel



ORDER

Bidisha Banerjee, Judicial Member

This application has been preferred by an unmarried daughter of Late P.C. Banik who retired w.e.f. 31.07.1981 from the post of Shunting Master from the Respondents' organisation. The present applicant has sought for the following reliefs:-

"(a) To pass an appropriate order directing upon the respondent authority to grant arrear pension with effect from 06.09.2007 to 01.12.2015 along with interest by modifying the pension payment order dated 21.12.2015 wherein the pension payment has been sanctioned and pension has been given with effect from 1.12.2015 instead of 06.09.2007;

(b) To pass an appropriate order directing the respondent authority particularly the Divisional Railway Manager, East Central Railway, Sonpur Division and the Senior Divisional Personnel Officer, Sonpur Division to immediately grant arrear pension in favour of the applicant who is an unmarried and eldest daughter of the Late Prakash Chandra Banik, the Ex-Shunting

Master/GHZ(Garihara) under the respondent authority with effect from the date when the Department of Personnel & Training, New Delhi issued office memo dated 6th September, 2007 and subsequently the office memo dated 17th August, 2009 and also adopted by the Ministry of Railways, Railway Board vide office order dated 02.09.2009 as regard grant of pension in favour of unmarried daughter till life and go give all consequential arrears benefits with 12% interest per annum;

(c) To pass an appropriate order directing the respondent authority to grant Family Pension (Basic Family Pension plus Dearness Relief) in the name of the present applicant and payment of arrear pension is to be disbursed through Bank Account No.31276231068 at State Bank of India, Alipurduar Branch;

(d) To pass an appropriate order directing the respondent authority to grant Family Pension (Basic Family Pension plus Dearness Relief) in favour of the applicant with effect from 06.09.2007 along with payment of interest at the existing rate of Provident Fund on the value of arrear Family Pension that fall due from 06.09.2007;

(e) To pass an appropriate order directing the respondent authority to issue fresh Pension Payment Order in favour of the applicant to effect payment towards Family Pension(Basic Family Pension plus Dearness Relief) as sanctioned from time to time w.e.f. 06.09.2007."



2. The M.A. No.350/361/2017 has been filed for deletion of name of Respondent No.1 from the array of respondents which is allowed.

3. The admitted facts are that the father of the applicant, Late Prakash Chandra Banik who retired w.e.f. 31.07.1981 on superannuation from the post of Shunting Master, died on 19.10.1997.

His wife Late Subarna Banik had predeceased him. He received pension after his retirement from 01.08.1981 till death, i.e. for about 16 years.

The applicant was 09 years old at the time of her father's retirement.

After death of P.C. Banik, his youngest daughter, Miss Renu Banik was paid family pension by the United Bank of India, Alipurduar Branch,

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Alipurduar until she attained the age of 25 years and she drew her last pension up to 26.02.2000. Thereafter, extension of family pension beyond 25 years for unmarried/widowed/divorced daughter was stipulated through Railway Board's RBE No.116/2007 dated 18.09.2007, RBE No.159/2009 dated 02.09.2009 and RBE No.59/2011 dated 20.05.2011 vide Annexure A/26 to Annexure A/32 of the OA itself. The applicant made representation for grant of family pension in the year 2012 under these rules. Shri Binod Kumar Verma, Personnel Inspector, E.C. Railway, Sonpur was deputed for filling up the pension forms. The applicant was also asked to submit required documents vide DRM(P)/EC Railway/Sonpur letter dated 02.04.2012. Ultimately the PPO for grant of family pension was issued on 21.12.2015 and a family pension of Rs.3500/- was sanctioned for payment with effect from 01.12.2015 vide PPO dated 21.12.2015. The applicant has claimed arrear of family pension with effect from 06.09.2007 to 01.12.2015 which according to the respondents is not tenable being beyond rules.



4. Earlier the applicant had filed O.A.No.350/1158/2014 which was disposed of on 12.06.2015 with the following order:-

"3.....this OA is disposed of at this stage with direction to the Respondent No.3 to consider and dispose of the representation of the applicant dated 30.01.2014, if it is still pending, and communicate the result thereof, in a well reasoned order, to the applicant within a period of thirty days from the date of receipt of a copy of this order and on consideration, if it is found that the applicant is entitled to such benefit then expeditious step be taken to release the same in her favour within another period of sixty days therefrom. If decision on the said representation has in the meantime been taken but result has not been communicated, the result of the same shall be communicated to the applicant within a period of fifteen days from the date of receipt of a copy of this order. All the points raised by the applicant are left open for the Respondent No.3 to consider. There shall be no order as to costs."

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The applicant had also filed a contempt application being No.CPC.350/177/2015 which was disposed of on 24.08.2016 with a direction that *"if the applicant is aggrieved and dissatisfied in this matter, she may challenge the decision of the respondents by taking recourse of law before the appropriate forum."*

5. Accordingly the applicant has filed this O.A. claiming arrears of family pension w.e.f. 06.09.2007 to 01.12.2015 which the respondents refuted as not tenable. However, no reason has been assigned by the respondents as to why the said claim is not tenable.

6. Be that as it may, we note that the right of unmarried daughters of railway servants/pensioners for family pension was bestowed vide Railway Board's order dated 18.09.2007 in view of DOP&PW notification dated 06.09.2007. In the present case we note that the employee had passed away on 19.10.1997 i.e. long before the Board's order dated 18.09.2007. Therefore, Board's order dated 18.09.2007 did not hold the field as on the date of death. We note that the Board's order dated 18.09.2007 explicitly lays down in terms of the instructions of Department of Pension and Pensioners' Welfare(DOP&PW)'s O.M. dated 6th September, 2007 on the subject "Extension of scope of family pension to unmarried daughters of railway servants/pensioners" that it would apply mutatis mutandis on railways and in terms of such instructions, family pension to an unmarried daughter beyond 25 years of age shall be admissible from the date of issue of instruction of DOP&PW dated 06.09.2007 or from the date on which her turn for family



pension materializes whichever is later. The Board's order dated 18.09.2007 is extracted for clarity:-

R.B.E. No. 116/2007

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
RAILWAY BOARD.

No. F(E)III/2007/PN1/5.

NEW DELHI

Dt. 18.09.2007

The GMs/ FA&CAOs,
All Indian Railways/Production Units,
(As per Mailing List)

Sub: Extension of scope of family pension to unmarried daughters of Railway servants/pensioners

A copy of Department of Pension & Pensioners' Welfare (DOP&PW)'s O.M No. 1/19/3-P&PW(E) dated 6th September, 2007 on the above subject is forwarded herewith for information and compliance. These instructions will apply mutatis mutandis on the Railways also



2 In terms of these instructions, family pension to an unmarried daughter beyond 25 years of age, shall be admissible from the date of issue of instructions of DOP&PW i.e. 06.09.2007 or from the date on which her turn for family pension materializes, whichever is later.

3 A concordance of DOP&PW's instructions referred to in the enclosed O.M and Railway Board's corresponding instructions is given below:-

	DOP&PW's instructions	Railway Board's corresponding instructions.
1	Rule 54 of CCS(Pension) Rules, 1972	Rule 75 of Railway Services (Pension) Rules, 1993.
2	O.M. No. 45/86/97-P&PW(A) Pt I dated 27.10.1997	Letter No. F(E)III/97/PN1/22 dated 5.11.1997.
3	O.M.No.45/51/97- P&PW(E) dated 5.3.1998.	Letter No. F(E)III/98/PN1/4 dated 27.4.1998.
4	O.M. No. 45/51/97- P&PW(E) Vol. II dated 25.7.2001	Letter No. F(E)III/98/PN1/4 dated 20.08.2001.
5	O.M.No.1/19/03 - P&PW(E) dated 25.8.2004.	Letter No. F(E)III/98/PN1/4 dated 16.03.2005 and 13.10.2006.

4 Please acknowledge receipt.

5 Hindi version is enclosed

(S.SREERAM)
Joint Director Finance (Establishment)
Railway Board.

It is not the case of the respondents that any other dependent child of deceased was eligible for family pension between 06.09.2007 until PPO was issued in favour of the applicant.

7. In the aforesaid backdrop, the O.A. is disposed of with a direction upon the respondents to act in terms of Board's order dated 18.09.2007 and pass appropriate orders untrammelled by their previous view, within three months justifying why the applicant would not be entitled to family pension w.e.f. 06.09.2007 in terms of RBE 116/2007 extracted supra, or pass appropriate order releasing arrears of family pension w.e.f. 06.09.2007 within the said period with interest at present banking rates.

8. The O.A. accordingly stands disposed of. No costs.



(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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