

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.590/2019

Date of Decision: 12.02.2020.

CORAM: R.N. SINGH, MEMBER (J)

1. Nalini Bawjibhai Patel,
Daughter of Bawjibhai Bhulabhai
Patel, DOB:05.02.1975, Age 43 years
09 months and presently R/at Room
No.45, Kalavati Bhavan, Jawahar Nagar,
Chakki Chawl, Shantilal Compound,
Khar (E), Mumbai 400 051, State of
Maharashtra, Cell No.9664909254.
2. Ranjana Bawjibhai Patel,
Daughter of Bawjibhai Bhulabhai
Patel, DOB:05.02.1975, Age 43 years
09 months and presently R/at Room
No.45, Kalavati Bhavan, Jawahar Nagar,
Chakki Chawl, Shantilal Compound,
Khar (E), Mumbai 400 051, State of
Maharashtra, Cell No.9664909254.

... *Applicants*

(Advocate Shri R.G. Walia)

VERSUS

1. Union of India, through
The General Manager,
Western Railway, Headquarters Office,
Churchgate, Mumbai 400 020.
2. DRM (Divisional Railway Manager)
DRM's (Divisional Railway Manager) office,
Mumbai Division, Western Railway,
Mumbai Central, Mumbai 400 008.
3. Chief Personnel Officer
DRM's (Divisional Railway Manager) Office,
Mumbai Division, Western Railway,
Mumbai Central, Mumbai 400 008.

... *Respondents*

(Advocate Ms. Sangeeta Yadav)

ORDER (Oral)

Per : R.N. Singh, Member (J)

Heard the learned counsels for the parties.

2. The Applicants who are unmarried daughters of late Shri Bawjibhai Bhulabhai Patel, the deceased employee, have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

"8.a) This Hon'ble Tribunal will be pleased to order and direct the respondents to grant Family Pension to the applicants (daughters of late Bawjibhai Bhulabhai Patel) from the date of their mother expired i.e. 05.02.2015 with all consequential benefits of arrears of family pension with 18% interest thereon.

8.b) This Hon'ble Tribunal will be pleased to HOLD and DECLARE that the non-grant of family pension to the applicants is absolutely illegal and wrong and accordingly direct the respondents to grant family pension to the applicants.

8.c) Any other and further orders as this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

8.d) Costs of this Original Application may be provided for."

3. The undisputed facts are that Late Mr. Patel was working in the Western Railway department on the post of Foreman at Loco Shed, Bandra and he expired while in service on 04.06.1985. After demise of Mr. Patel,

his widow i.e. the mother of the applicants started getting family pension, however, she expired on 04.02.2015. Subsequent her death the applicants have applied for grant of family pension to them in accordance with rules vide their letter dated 15.07.2015 (Annex. A-7). However, no action was taken by the respondents. Being aggrieved of the inaction of the respondents, the applicants have filed the present OA, seeking reliefs as noted herein above in para 2.

4. In response to the notice from this Tribunal, the Respondents have filed reply. In para 5 of the reply, the respondents have submitted that at the relevant time the mother of the applicants had submitted the details and particulars of the legal heirs of the deceased employee with the respondents and the said details submitted in Form No.6 to the respondents indicates the following legal heirs of the deceased employee:

Sr. No.	Name	Relationship with Railway Employee	DOB
1	Smt. Parvatiben	Wife	01/06/39
2	Mr. Paresh	Son	11/01/77
3	Kum. Bharatiben	U/m Daughter	16/06/65
4	Kum. Daksha	U/m Daughter	Age 17 years
5	Kum. Pushpa	U/m Daughter	Age 16 years
6	Kum. Ranjana	U/m Daughter	Age 11 years
7	Kum. Nalini	U/m Daughter	Age 10 years

5. Learned counsel for the respondents under instructions submits that the applicants have concealed the material facts to the effect that the applicants' mother left behind five daughters and one son whose name have been noted herein above and thus the applicants have not approached this Tribunal with clean hands.

6. Per contra, Mr. Walia, learned counsel for the applicants submits that the three daughters of the deceased employee other than the applicants in the present OA are not eligible for family pension inasmuch as two have already been married and the third one is in receipt of income which makes her ineligible for grant of family pension. He also submits that the son of the deceased employee is not eligible for family pension as per the rules. In these circumstances, there was no occasion or justification for the applicants to indicate their names while making the claim of the family pension. He further contends that what the respondents are contending today they could have done by responding to the applicants claim for family pension vide their representation dated 15.07.2015 (Annex. A-7). He also

invites my attention to the revised PPO dated 26.05.2014 in which under Category-II, the name of the applicants and their martial status have also been indicated to be that of being unmarried daughters. Para 'A' of the said revised PPO also records as under;

"Family pension in favour of the above mentioned Family Member, other than spouse (wife/husband) whenever becomes due as per his/her turn, will be paid only after issue of Fresh Pension Payment Order (PPO)."

7. A copy of such revised PPO has been placed by him on record and a copy thereof was also supplied by him to the learned counsel for the respondents. Learned counsel for the respondents submits that the respondents have no objection in considering the grant of family pension to either of the applicants, subject to the condition that the applicants submit an affidavit from either of the two applicants to the effect that if family pension is granted to one of them, the other is having no objection and on receipt of such affidavit, the respondents shall consider and release the family pension as expeditiously as possible and in any case within six weeks of receipt of such a claim from one of the applicants supported by the requisite of the other applicant.

8. In view of the aforesaid, the OA is disposed of with the following directions:

a) Either of the applicants will make a claim for release of family pension in her favour supported with an affidavit of the other unmarried daughter to the effect that she does not have any objection if the family pension is released to the claimant/applicant in accordance with the relevant rules and instructions on the subject, within a week from the date of receipt of a copy of this order.

b) On receipt of such claim supported with the requisite affidavit, the respondents shall consider and pass order(s) for release of the family pension in favour of the applicant as expeditiously as possible and in any case within six weeks of receipt of such claim and affidavit and on completion any other formality to be done and completed by the claimant/applicant. Once the respondents will issue the PPO with regard to payment of family pension to either of the applicants, the respondents shall also calculate and release the arrears of the family pension from the date the same has become admissible to the

claimant/applicant.

c) It is further directed that the respondents shall also make payment of interest on the arrears of such family pension @7% p.a. from the date the same has become due till the actual payment thereof .

9. The Original Application is disposed of in the aforesaid terms. However, no order as to costs.

(R.N. Singh)
Member (J)

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