

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 444/2001

This the 18th day of March, 2002.

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HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Ms. Poonam Daughter of Des Raj,
Retd. Shroff, Northern Railway,
Chief Cashier Office, New Delhi,
R/O B-3A/22A, Janak Puri,
New Delhi.

... Applicant

(By Shri G.D.Bhandari, Advocate)

-versus-

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Dy.C.A.O./Cash & Pay,
Northern Railway,
New Delhi.

3. FA & CAO, Northern Railway,
Baroda House,
New Delhi.

... Respondents

(None present)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant is aggrieved by action of respondents in non-grant of family pension to applicant who is a divorced daughter of the deceased Government employee and has been dependent on her late mother Smt. Veera Rani who too expired on 7.2.1999.

2. No one appeared on behalf of respondents.

Therefore, we have proceeded to dispose of this matter in terms of Rule 16 of C.A.T. (Procedure) Rules, 1987,

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after consideration of respective pleadings, material on record and arguments advanced by learned counsel of applicant.

3. Learned counsel of applicant stated that vide DOP&T instructions dated 30.9.1997 relating to recommendations of the Fifth Central Pay Commission for purposes of family pension, widowed/divorced daughters have been included in the definition of "family" for payment of family pension up to 25 years of age or up to the date of their re-marriage or till they start earning a minimum wage of Rs.2440/-, whichever is earlier. The learned counsel contended that limiting the grant of family pension to widowed/divorced daughter only up to 25 years of age has no rationale and amounts to violation of principles of natural justice.

4. Respondents have stated that Smt. Veera Rani had received revised family pension as per recommendations of the Fifth CPC w.e.f. 1.1.1996 and there was nothing due to her in this regard. They have also stated that on the demise of the Government servant, his son was given compassionate appointment in the Railways.

5. To our specific query that while appointment on compassionate grounds is provided to a member of the family of the deceased Government employee so that he may take care of the members of the family of the deceased

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Government employee and when the son of the deceased Government employee and brother of the applicant herein had been provided employment on compassionate grounds, how come applicant is complaining of critical financial conditions having no source of income, the learned counsel stated that the appointee on compassionate grounds has no liability to support his brothers/sisters after their marriage and that he had never given any undertaking to support her.

6. The purpose of providing appointment on compassionate grounds is to mitigate hardships due to death of the bread earner in the family. A person who is appointed on compassionate grounds is supposed to look after the other members of the family of the deceased. If the present applicant claims to be a member of the family of the deceased Government servant despite having attained the age of 25 years, the argument of the learned counsel cannot be accepted that a member of the family appointed on compassionate grounds does not have any responsibility to look after the other members of the family. Provision of an age limit for inclusion of widowed/divorced daughters in the definition of "family" for payment of family pension falls within the realm of a policy matter. It is an established law that policy decision is not open to judicial review unless it is mala fide and arbitrary. Existence of mala fide intention or arbitrariness has not been established in the present matter.

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7. Accordingly, we do not find any infirmity in non-grant of family pension to applicant as a divorced daughter of the deceased Government employee having crossed the age limit of 25 years.

6. The OA is accordingly dismissed. No costs.

Kuldeep
(Kuldip Singh)
Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/