

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1812/2000

New Delhi, this 6th day of July, 2001

Hon'ble Shri M.P. Singh, Member(A)

(b)

1. Smt. Prem Wati
w/o late Shri Manoharlal
Retired Station Supdt.
 2. Suresh Kumar
 3. Yogesh Kumar
 4. Mukesh Kumar
all c/o Shri Dhani Ram
House No. 104, Friends Enclave
Sultanpuri, Nangloi, Delhi-41
- ... Applicants

(By Shri S.K. Sawhney, Advocate)

versus

Union of India, through

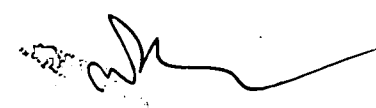
1. General Manager
Northern Railway, Baroda House, New Delhi
 2. Divisional Railway Manager
DRM Office, New Delhi
 3. Senior Divisional Accounts Officer
Northern Railway, Delhi
- .. Respondents

(By Shri P.M. Ahlawat, Advocate)

ORDER(oral)

This application is filed by the legal heirs of late Shri Manoharlal, who retired as Station Superintendent on 30.11.95 from the respondent-Railway, challenging the order dated 10.5.2000.

2. It is the case of the applicants that late Shri Manoharlal was issued charge-sheet earlier to his retirement, which was ultimately decided vide order dated 17.3.99, whereby he was awarded the penalty of 20% cut in pension for a period of one year. The period of punishment started on 1.12.95 and ended on 30.11.96. He had applied for 1/3rd commutation of pension after the



passing of order dated 17.3.99. He died on 6.1.2000. By Annexure A/4 PPO, he was sanctioned provisional pension of Rs.1170/-. However by another PPO issued on 28.6.2000, he was granted pension @ Rs.3570/- p.m. w.e.f. 1.1.96 and Rs.390/- was shown as commuted pension which was ordered to be deducted from the pension, though the said amount was not paid to him. As per Rules, a railway servant against whom a departmental proceeding has been instituted or continued under rule 2308 shall not be permitted to commute any part of pension during the pendency of such proceedings. As these proceedings against late Shri Manoharlal ended with the issue of order dated 17.3.99, he became entitled to commutation on 18.3.99 and Rs.390 on account of commutation were deducted from his pension. When the commutation value of pension was not paid to him till 6.1.2000, the first applicant (wife of the deceased) made a representation on 3.5.2000 but the same has been rejected by the impugned order dated 10.5.2000. That is how the applicants are before this Tribunal seeking the following reliefs, for directing the respondents to:

- (i) pay commutation value of Rs.390/- (1/3rd pension)
- (ii) Pay interest on the communication amount from 18.3.99 to the date of payment;
- (iii) To pay interest for the amount paid on 10.3.2000 @ 12% p.a. for the period from 18.3.99 to 9.3.2000;
- (iv) Issue post-retirement pass to first applicant.

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3. Respondents have opposed the OA by filing their reply. They have stated that the case of granting final pension and subsequently family pension was sent to the associate finance but the same was returned on 11.3.2000 with certain remarks. Late Shri Manoharlal was getting provisional pension which cannot be commuted as per extant rules. Penalty of 20% cut in pension for a period of one year was awarded to him vide letter dated 26.7.99 but he did not apply for 1/3rd commutation of pension after 17.3.99 or 26.7.99. The amount of Rs.390 shown as commuted pension in the revised PFO dated 28.6.2000 was due to clerical mistake which was rectified by amending the PFO and writing to the concerned Bank and DPO on 25.10.2000 and 16.11.2000 respectively. However, applicant No.1 is entitled for post-retirement pass as per extant rules. In so far as the payment for the period from 18.3.99 to 9.3.2000, the same have been released in favour of the applicants on receipt of intimation of the death of Shri Manoharlal and therefore no interest is due on these payments. In view of this position, OA may be dismissed.

3 4. Heard the learned counsel for the parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicants drew my attention to para 13(v) of Chapter III of Railway Services (Pension) Rules, 1993 regarding commutation of pension without medical examination, which provides that an applicant who is authorised a pension in whole or in part on the finalisation of the departmental or judicial proceedings



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referred to in rule 9 of the Railway Pension Rules and issue of final orders therein, shall subject to the limit in rule 6, be eligible to commute a fraction of his pension without medical examination, provided that he applies for commutation of pension in Form 1 or Form 2 in accordance with the provisions of rule 14. Proviso (b) to Rule 14(1) further provides that the period of one year shall reckon from the date of issue of the order consequent on the finalisation of the departmental or judicial proceedings. In this case, the departmental proceedings were finalised vide order dated 17.3.99 and hence one year period would reckon from that date. Though the learned counsel for the applicants maintains that late Shri Manoharlal applied for 1/3rd commutation of pension after the order dated 17.3.99 was passed, respondents deny the same in their reply.


6. Learned counsel for the respondents however submitted that the late Shri Manoharlal had not applied for 1/3rd commutation of pension in the proper form and therefore his case was not processed. This excuse cannot be accepted at this stage when Shri Manoharlal is no more and particularly in view of the letter dated 12.8.99 (Annexure AAI to the rejoinder). The aforesaid letter from SS/ASE to DRM, New Delhi states that the retired Station Superintendent (the deceased Government servant) has now submitted his request for 1/3rd commutation of pension after filling up the requisite form. In any case, whatever form had been used, the particulars mentioned by him would have been the same as per official records. In view of this position, I feel it is a fit case to give proper directions to the respondents. In



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the result, the OA is allowed and the respondents are directed to release the commuted value of pension to the family members of the deceased from the date it was due to him. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. In so far as issue of post-retirement pass to the first applicant is concerned, the learned counsel for the respondents conceded that she is entitled for it and the respondents have no objection to extend this facility to her.

7. The OA is disposed of as aforesaid. No costs.


(M.P. Singh)
Member(A)

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