

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2083
T.A. No.

1989

DATE OF DECISION 16.2.1990

Smt. Nanabai

Applicant (s)

Shri B.N. Bhargava

Advocate for the Applicant (s)

Versus

U.O.I.

Respondent (s)

Shri Inderjit Sharma

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. T.S. Oberoi, Member (J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *And*
4. To be circulated to all Benches of the Tribunal ? *No*

JUDGEMENT

(OF THE BENCH DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

The applicant, Smt. Nanabai is the widow of Late Pt. Laxmi Narain, retired Station Master, Raman, presently forming part of Bikaner Division of the Northern Railway. Late Shri Laxmi Narain retired from service in the year 1936. The applicant applied for grant of family pension to DRM, Bikaner Division in the prescribed proforma on 2.2.89 followed up by a reminder dated 11.4.89. When she did not receive any answer, she filed the above application praying that the respondents be directed to grant her family pension as per Railway Board's Notification dated 25.2.86 w.e.f. 22nd September, 1977 alongwith arrears from the said date.

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2. The case was heard on 13.2.90. The Ld. Counsel for the applicant has relied on OM No.1(11)85-Pension Unit, dated the 18th June, 1985 issued by Ministry of Personnel, Public Grievances and Pensions extending the benefits of family pension scheme of 1964 to eligible members of the family of the deceased Govt. employees in accordance with rule 54 of CCS Pension Rules, 1972 w.e.f. 22.9.1977 i.e. the date on which the family pension scheme was made non-contributory or from subsequent date when the family/dependent become eligible for such pension. This benefit however applies to the family/dependant of those deceased government servants who were/are borne "on pensionable establishment". The said O.M. was issued in pursuance of the judgement of the Supreme Court reported in AIR 1985 page 1196 in the case of Smt. Poonamal etc. etc. vs. UOI & Ors. The Ld. Counsel further stated that based on said OM of the Ministry of Personnel, Public Grievances and Pensions, the Railway Board have also issued instructions in regard to the railway employees vide their letter dated 26.7.85. He averred that the applicant was entitled to family pension in terms of these orders.

3. The Ld. Counsel for the respondents submitted that the applicant is not eligible for the family pension as Late Shri Laxmi Narain was clearly not borne on a "pensionable establishment" and that on his retirement he would have received terminal benefit under the Contributory Provident Fund Scheme. He further submitted that applicant is also not eligible for monthly ex-gratia payment in accordance with Ministry of Personnel, Public Grievances and Pensions OM No.4/1/87-P & PW (PIC) dated 13th June, 1988, as per the Railway Board clarification circulated vide respondent No.1 letter No.720 E/XXXII (Pension) dated 24th April, 1989. The Railway Board have clarified that "as per extant orders the families of the deceased employees who retired from ex-company and Princely State Railway before their take over are not eligible to the grant of ex-gratia payment". In the respondent's counter it has been stated that it is to be determined if Raman Station was on Bikaner State Railway or Bombay, Baroda and Central Indian Railway. The

applicant will not be entitled even to ex-gratia payment if the station is on Princely State Railways, otherwise she is.

4. We have heard the Ld. Counsel of both the parties and gone through the record carefully. The pension scheme on the Railways was introduced only from 1.4.1957, Late Shri Laxmi Narain therefore was clearly not borne on the "pensionable establishment" entitling his widow to the grant of family pension. We however find that the provident fund memo of account dated 25.7.1936 (account No.24766) issued to Shri Laxmi(Lachmi) Narain indicating amount lying in credit in his account as on 31.3.1936 is issued by Bombay, Baroda and Central India Railway Company. Similarly, there is another letter addressed to the deceased dated 28.7.1938 by the Bombay, Baroda and Central India Railway Company. From Appendix A submitted by the Ld. Counsel of the respondents indicating Railway Administrations in India on 31.3.1948, it is seen that Bombay, Baroda and Central India Railway was owned and worked by Indian Government and not by a Princely State or a Private Company. The documentary evidence clearly establishes that Late Shri Laxmi Narain was an employee of Bombay, Baroda and Central India Railway, as his provident fund account statement shows.

5. Having regard to the above facts and circumstances of the case we hold that the applicant is entitled to the ex-gratia payment payable to the families of deceased Contributory Provident Fund retirees in terms of OM No.4/1/87-P & PW(PIC) issued by the Ministry of Personnel, Public Grievances & Pensions dated 13th June, 1988. Accordingly we order and direct that the applicant should be sanctioned ex-gratia payment at the prescribed rate together with admissible dearness allowance *relief* w.e.f. 1.1.1986 as early as possible in view of the old age of the applicant but not later than 30 days from the date of the communication of this order in accordance with the instructions of Government of India vide OM dated 13.6.1988.

6. The O.A. is disposed of as above with no orders as to costs.

Dulabh
(I.K. Rasgotra)
Member (A) 16/2/90

T.S. Oberoi
(T.S. Oberoi)
Member (J)

16/2/90