

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

(order reserved on 23.12.2020)

O.A.No. 060-1165 of 2019



Chandigarh, this the, 30.12.2020

CORAM: HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Adrash Katyal d/o late Sh. Prem Sagar, resident of 45, Anand Vihar, Ambala Cantt (Haryana) Pin-133 001.

.....Applicant

(BY ADVOCATE: Mr. Karnail Singh)

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi. Pin-110 001.
2. Divisional Railway Manager, Northern Railway, DRM Complex, Ambala Cantt. Pin 133 001.
3. Sr. Divisional Personnel Officer, Northern Railway, DRM Complex, Ambala Cantt. Pin 133 001.
4. Financial Advisor and Chief Accounts Officer/Pensions, Northern Railway Baroda House, New Delhi-110001.

BY ADVOCATE: Mr. Rohit Sharma

.. Respondents



ORDER
HON'BLE MRS. AJANTA DAYALAN, MEMBER(A).

1. This OA has been filed by the applicant Adrash Katyal seeking quashing of orders dated 15.2.2018 & 26.11.2018 (Annexure A-1) vide which grant of family pension to the applicant, being widowed daughter of deceased government servant Prem Sagar has been declined. The applicant has also sought grant of family pension to her and also payment of arrears with effect from 1.5.2017 along with interest.
2. The father of the applicant Prem Sagar was Chief Train Clerk with the respondents at Ambala and superannuated on 30.4.1990. The applicant Adrash Katyal is the daughter of Prem Sagar. She lost her husband Shailendra Katyal on 26.5.1996 (Annexure A-2). Father of the applicant made a request for entry of his daughter i.e. the applicant for purpose of grant of complementary pass (Annexure A-4). This is clear from the respondent department letter dated 4.7.2008 (Annexure A-4). However, unfortunately father of the applicant expired on 27.7.2008. Consequently, family pension was granted to the mother Sudesh Rani (Annexure A-7).
3. The mother of the applicant, Sudesh Rani, also expired on 14.12.2010(Annexure A-2). At that time, the applicant was working in a private school and was



earning her livelihood. As such, she did not claim family pension at that point of time. Subsequently, the applicant retired on 30.4.2017 from private job without any pensionary benefits. In the OA, she has also stated that she was not aware about the family pension scheme being applicable to widowed daughters. Now having reached the stage of starvation and suffering from old age diseases, the applicant decided to make representation vide application dated 18.7.2017 for grant of family pension. However, the respondents have passed the impugned orders dated 15.2.2018 and 26.11.2018 (Annexure A-1) vide which her request for grant of family pension has been rejected on the ground that the applicant had to be dependent on the mother at the time of her death which was not the situation in the case of the applicant.

4. The case of the applicant is that being widowed in 1996 itself during the life span of the deceased government employee, she was entitled to family pension subsequent to death of her father and mother. This was especially so after superannuation of the applicant from her job in private school in 2017. She applied for family pension thereafter. The counsel for the applicant also stated that the applicant does not have any pensionary benefits or any other source of income and she is now old and has reached the stage of starvation. The claim of the applicant is also permissible as per Railway Board



clarification dated 20.8.2008 (Annexure A-3) whereby it is clarified that widowed daughter will be eligible for family pension after the cessation of pension/family pension to the employee/widow. These orders were to apply prospectively as and when such a contingency arises. In view of above, the counsel for the applicant stated that the applicant is entitled for the benefits w.e.f. 1.5.2017 as sought in the OA.

5. The counsel for the respondents has rebutted the claim of the applicant. In the written statement, the respondents have stated that Prem Sagar, father of the applicant retired from railway service on 30.9.1990 and died on 27.7.2008. After that, his widow Sudesh Rani was getting family pension upto 14.12.2010 when she also expired. The respondents have further stated that as per Railway Board circular dated 26.9.2013, a child who is not earning equal to or more than the sum of minimum family pension and dearness relief is considered to be dependent on his/her parents. Therefore, only those children who are dependent and meet other conditions of eligibility for family pension at the time of death of the government servant or his/her spouse, whichever is later, are eligible for family pension. The applicant was working as TGT Science in Air Force School, Ambala, from 2.1.1981 to 30.4.2017 as a permanent employee and is now getting 'pension from Employees Pension Fund, as per the provision of



CPF' as indicated in the letter dated 10.7.2017 received from the Principal, Air Force School (Annexure R-1). As such, the applicant was not dependent on the pensioner since 2.1.1981 to 30.4.2017. The respondents have, therefore, concluded that in terms of the said policy, she is not entitled for family pension and hence her claim was rightly declined vide orders dated 15.2.2018 & 26.11.2018.

6. The counsel for the applicant has filed a rejoinder wherein he has stated that as per Railway Board order RBE No.152/2006 (Annexure A-10), widowed daughter is eligible for family pension from 25.8.2004 or the date on which her turn for family pension materializes, whichever is later. This decision has again been endorsed vide Railway Board order 59/2008 dated 20.12.2008 (Annexure A-18) as well as OM dated 11.9.2013 (Annexure A-16). The counsel for the applicant also quoted other OMs of Ministry of Personnel, Public Grievances & Pensions to support her claim. Besides this, he also stated that the applicant has retired from private school without any pensionary benefits except Rs.2400/- per month only as a return of her own money deposited in EPF. It is also stated that this amount is not proper for maintenance of the applicant to live a life with dignity as a retired teacher. The applicant's counsel has thus concluded that the applicant is entitled for family pension after her retirement in April 2017.



7. I have heard the counsel of opposing sides and have also gone through the pleadings of the case. I have also given my thoughtful consideration to the entire matter.
8. The basic facts of the case are not in dispute. The applicant is the daughter of Prem Sagar who retired from service on 30.4.1990 and died on 27.7.2008. After his death, family pension was granted to the mother of the applicant who also died on 14.12.2010. At that time, the applicant's husband had also expired and she was working as TGT Science in Air Force School, Ambala. As such, she did not apply for family pension. The applicant herself retired from her private job on 30.4.2017. As she was working in Air Force School from January 1981 to April 2017 as a permanent employee, she is entitled for pension from Employees Pension Fund under provisions of EPF. No other pension is admissible to her as per school norms. As stated by the applicant, she is in receipt of Rs.2400/- per month as pension from EPF. The applicant applied for pension on 18.7.2017 which has been declined vide impugned orders dated 15.2.2018 & 26.11.2018.
9. The sole question for decision before this Tribunal is whether the applicant being widowed daughter of the deceased government employee, but still working as TGT in a private school till 30.4.2017, is entitled for family



pension or not as per Rules and instructions applicable to railway employees.

10. In order to decide this matter, I have carefully gone through all the notifications and orders annexed by the applicant's counsel. There are at least 10-12 such orders besides the Family Pension Rules of 1964. These relate to various issues and liberalization in pension and especially family pension made by the Government of India from time to time. The issues include payment of family pension to the divorced/widowed daughters irrespective of the age on which the daughter is widowed or divorced and grant of family pension when there are more than one entitled family members. These also include payment of family pension to disabled children. There are many such other issues. However, there is no place where it is stated that the daughter can be granted family pension when she was not dependent on her father i.e. the deceased government servant or her mother when they both expired. As is clear from the basic facts of this case, the daughter was a permanent employee of Air Force School at the time of death of her father in 2008 and also at the time of death of her mother in 2010. She continued to be in her job as TGT Science till April 2017 and was thus in receipt of full salary till that time. It was only in April 2017 that she retired from Air Force School. In fact after going through all the orders, I am quite clear that the admissibility of



the claim is to be determined at the time of death of the deceased government servant or his/her spouse and not thereafter. Para 4 of the office memorandum dated 11.9.2013(Annexure A-16), which is particularly relevant to adjudicate the controversy, reads as follows :-

“ 4. It is clarified that the family pension is payable to the children as they are considered to be dependent on the Government servant/pensioner or his/her spouse. A child who is not earning equal to or more than the sum of minimum family pension and dearness relief thereon is considered to be dependent on his/her parents. Therefore, only those children who are dependent and meet other conditions of eligibility for family pension at the time of death of the Government servant or his/her spouse, whichever is later, are eligible for family pension. If two or more children are eligible for family pension at that time, family pension will be payable to each child on his/her turn provided he/she is still eligible for family pension when the turn comes. Similarly, family pension to a widowed/divorced daughter is payable provided she fulfils all eligibility conditions at the time of death/ineligibility of her parents and on the date her turn to receive family pension comes”.

It is clear from this that only those children who are dependent and meet other conditions for family pension at the time of death of the government servant or his spouse, whichever is later, are eligible for family pension. This is the order of 2013 and is one of the latest order in the series of orders appended by the applicant himself. Even the other OMs do not change this fundamental condition. That the applicant was not dependent at the time of death of her father or mother is not argued even by the applicant's side.

11. Besides this, it is noted that the applicant was not only not dependent on her parents at the time of their death but continued on her job till April 2017. In fact, she is even now in receipt of pension of Rs.2400/- per month as per her employer's letter to the respondent



department (Annexure R-1) and paras 12 & 13 of the rejoinder.

12. In view of above, I do not find that any case is made out for grant of family pension to the applicant. The OA is, therefore, dismissed.

(Ajanta Dayalan)

Member(A).

Place: Chandigarh
Dated: 30.12.2020

KKS