

OA No. 291/728/2016

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/728/2016

Order reserved on 12.10.2020

DATE OF ORDER: 19.10.2020

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

Smt. Kanta widow of Late Shri Ghanshyam & daughter of Late Shri Shankar Singh, Ex Rly. Emp., aged 55 years, and R/o 312/3 Jwala Prasad Nagar, Ward No. 46, Madar, Ajmer.

....Applicant

Shri N.K. Gautam, counsel for applicant (through Video Conference).

VERSUS

1. Union of India through General Manager, North Western Railway, Jagatpura, Jaipur.
2. Chief Works Manager, Loco Workshop North Western Railway, Ajmer.

....Respondents

Shri Y.K. Sharma, counsel for respondents (through Video Conference).

ORDER

Per: Hina P. Shah, Judicial Member

The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking for the following reliefs:

- “(i) the respondent letter dated 29.3.2016 may be declared as uneffective and irrelevant and be quashed and set aside the same.
- (ii) The earning of the applicant be treated as less than Rs. 3500/- + D.A. per month.
- (iii) Applicant be awarded for entitlement of Railway employee widow daughter family pension since July 2011.
- (iv) Direct the respondents to make arrears of payment of widow daughter family pension to the applicant since July 2011 and further its continuity.
- (v) Cost of the application may be awarded to the applicant.
- (vi) Any just and reasonable relief, the Hon’ble Tribunal consider just and reasonable in the facts and circumstances of the case.”

2. The brief facts of the case, as stated by the applicant, are that she is widow of Late Shri Ghanshyam, who expired on 22.06.1992 and daughter of late Shri Shankar Singh, railway employee, who expired on 23.09.1997 while getting pension. The

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mother of the applicant, Smt. Gora w/o late Shri Shankar Singh already expired on 04.03.1997. After marriage, her matrimonial home was at C-148, Shyam Gali, Kotla Muarakpur, New Delhi and she had a son, Rajgopal, who expired on 02.07.2011 and one daughter, Pooja, who is now married. She became all alone at Delhi and was getting widow pension amounting to Rs. 1000/-per month. Due to distress and miseries, she is unable to maintain herself. She also states that she has no other source of income except the widow pension from Delhi Govt. She has not re-married. At present, she is residing at her father's residence at Ajmer at C/O Shri Brjj Mohan, House No. 312/3, Jwala Prasad Nagar, Ward No. 46, Madar, Ajmer as per family Ration Card. Thus, she is entitled for widow daughter family pension as widow daughter of Shri Shankar Lal. She has produced Affidavit dated 01.09.2014 (Annexure-A/8) in support of the same. Though there are several notifications/circulars issued by the respondents for entitlement of widow daughter family pension, but the respondent No. 2 has discarded her case vide letter dated 05.11.2014 (Annexure A/10), whereby it is stated that as her total income is Rs. 8500/- p.m., which is more than Rs.

3500/-+DA by all sources, she is not entitled for widow daughter family pension. Thereafter, she was forced to send a legal notice dated 29.02.2016 denying her assessed earning of Rs. 8500/- p.m. In response to the said legal notice, respondent No. 2 vide letter dated 29.03.2016 (Annexure A/1) denied the grant of widow daughter family pension on the ground that she is already getting Rs. 8500/- p.m., which is more than Rs. 3500/- p.m. She is neither owner of any land & building nor has any tenant from whom she gets monthly rent. Therefore, action of the respondents in denying her rightful and legal claim of getting widow daughter family pension is arbitrary and unjust. She is, thus, entitled to get widow daughter family pension after death of her son, Rajgopal, the only supporter who expired on 02.07.2011. Thus, she has approached this Tribunal for quashing letter dated 29.03.2016 and that she may be granted widow daughter family pension since July 2011 as she is widowed daughter of railway employee.

3. After issue of notices, the respondents have filed their reply denying the claim of the applicant on the ground that she gets Rs. 1000/-per month as widow

pension from Delhi Government, earning Rs. 3500/- per month from house rent and she earns Rs. 4000/- from miscellaneous chores and, accordingly, she earns Rs. 8500/-per month from different sources of income. Thus, she is not entitled for widow daughter family pension. The respondents further state that the applicant herself has admitted in her statement dated 25.10.2014 on oath before the Chief Welfare Inspector, which are as under: -

"मेरा विवाह श्री घनश्याम से लगभग 38-39 वर्ष पूर्व हुआ था, मेरे पति फुटकर कार्य करते थे जिनका 22-06-1992 को निधन हो गया था, मैं पति के निधन पश्चात कोटला नई दिल्ली में निवास करती हूँ। मैंने पति के निधन पश्चात कोई पुनर्विवाह या नाता नहीं किया है। मैं फुटकर कार्य से 4000 रु. प्रतिमाह कमा लेती हूँ। मुझे दिल्ली सरकार से 1000 रु. प्र० माह विधवा पेंशन मिलती है। मेरे पास किसी प्रकार की कोई चल या अचल सम्पत्ति नहीं है। मैं मेरी सास के मकान में रहती हूँ। मेरी सास ने मुझे सबसे ऊपर की मंजिल दे रखी हैं। इस मंजिली को मैंने श्रीमती चन्द्रकान्ता पत्नी श्री बसंत नेपाली को 3500/- रु. प्र. माह किराये पर दे रखा है।

मेरे अलावा मेरे माता-पिता के परिवार में अन्य कोई सदस्य पा. पेंशन के लिए योग्य नहीं है। मेरे एक विवाहित पुत्री श्रीमती पूजा है, इसके अलावा मेरे कोई संतान नहीं है। ये शपथ पूर्वक बयान मैं रेल्वे विभाग से विधवा पुत्री पा. पेंशन हेतु दे रही हूँ। अगर ये शपथ-पूर्वक बयान भविष्य में असत्य पाये जाते हैं, तो मैं स्वयं उत्तरदायी रहूँगी। "

In such circumstances, as the applicant is already getting Rs. 8500/- per month, which is more than the minimum pension amount, the impugned order dated 29.03.2016 has been rightly passed as the same is just and proper. Since the applicant is not entitled for any relief, the present Original Application deserves to be dismissed.

4. The applicant has filed rejoinder denying the contentions of the respondents. The applicant stated that she is neither owner of any building nor she is in possession of any building nor she has lent her house to tenants. At present, she resides at Ajmer. Therefore, the allegation of the respondents that she is getting monthly rent from tenant as Rs. 3500/- is false and baseless. As she is an old distressed and miserable lady, it is practicable not possible to earn Rs. 4000/- per month from miscellaneous work. Therefore, denying her legal and rightful claim to get widow daughter family pension is highly unjust and improper. As per Railway Board instructions, she is entitled for widow daughter family pension from the date of her widow hood. After death of her son, Rajgopal, it is very difficult to maintain herself. As she has not re-married

till date and has no other source of income, she is legally entitled for widow daughter family pension.

5. Heard learned counsels for the parties through Video Conference and perused the material available on record.

6. The applicant, besides reiterating the facts, stated that she is an old miserable and uneducated widow. She has no source of income other than the widow pension she gets from Delhi Government. She requested that it is very difficult for her to maintain herself and that respondents be directed to immediately release widow daughter family pension.

7. The respondents, on the other hand, pointed out that the submission of the applicant is totally incorrect. The respondents stated that as per RBE No. 98/2008, it is clear that the criteria as provided in the rule is that the income of the divorced/widowed daughter should not exceed Rs. 2550/- per month from employment in the Government, the private sector, self-employment, etc. The main consideration is whether she is earning more than Rs. 2550/- per month or not. Therefore, as

the applicant is earning more than Rs. 2550/- per month, which is Rs. 8500/- per month from all sources as per the Chief Welfare Inspector Report dated 30.10.2014, the applicant is not entitled for any widow daughter family pension.

8. The only point for consideration in the present case is whether applicant is entitled for widow daughter family pension. It is her case that her husband late Shri Ghanshyam, her father, late Shri Shankar Singh, a railway employee as well as her mother, Smt. Gora have expired on 22.06.1992, 23.09.1997 and 04.03.1997, respectively. Her son, Rajgopal, who was taking care of her, has also expired on 02.07.2011. It is true that she was residing at her matrimonial home at Delhi but has now shifted to Ajmer and residing at her father's house. She has a daughter, Pooja, who is married. At Delhi she was getting widow pension of Rs. 1000/- per month. She is in distress and her life is full of miseries. She is unable to maintain herself after death of her son. She is legally entitled for getting widow daughter family pension as she was daughter of late Shri Shankar Singh, who was a railway employee. It is her claim that she is neither owner of any land or

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building from where she can get monthly rent of Rs. 3500/-. She is also not in a condition to perform any other work, so there is no question of her getting any amount of Rs. 4000/- per month. She is an old widow, who is not re-married and is unable to perform any earning since second half of 2014. She has also filed an Affidavit dated 01.09.2014 in support of her contention. On the other hand, the respondents rely on the report of Chief Welfare Inspector dated 25.10.2014, wherein it is stated that the applicant herself has admitted that after death of her husband she is residing at Kotla, New Delhi in her in-laws house. Her mother-in-law has provided her upper floor to stay and the same has been given by her to one, Smt. Chandrakanta W/o Shri Basant Nepali on rent from whom she is getting Rs. 3500/- per month as rent and is also earning Rs. 4000/- doing miscellaneous work. She has also added that there is no one other than her on her parent's side, who is entitled for pension. She has only one married daughter, Pooja and no one else. The respondents state that as per R.B.E. No. 98/2008, if a divorced / widowed daughter is earning more than Rs. 2550/- per month from employment in the Government, the private sector,

self-employment, etc., she is not entitled for widow daughter family pension. Therefore, as per the applicant's own admission before the Chief Welfare Inspector and as per his report, the impugned order dated 29.03.2016 is just and legal and, therefore, she is not entitled for widow daughter family pension.

9. It is clear that besides Widow Pension of Rs. 1000/- per month from Delhi Government, other amounts claimed as per report of Chief Welfare Inspector may vary. She is a widow lady and may be unable to do any miscellaneous work. Also pertaining to rent claimed by her as per report also may have stopped. In the present situation, it is very difficult for a lady to maintain herself when she herself admitted that till her son Rajgopal was alive, she had no problem to maintain herself. It is clear that after the death of her son, it is difficult for her to survive. Even if she had received Rs. 8500/- per month as per report of Chief Welfare Inspector at that time, but it is seen that she is uneducated and may not have been able to give correct details. Be that as to what she must have stated or was recorded by the Chief Welfare Inspector, but a widow lady, who has no one in the entire world

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to maintain and is in distress even to maintain at Rs. 8500/- is very difficult and cannot be left at the mercy of God to maintain her. Justice claims that in such a situation, leaving aside any rules or circulars, the Railway Authorities may be directed to provide her with the widow daughter family pension at least from the date of filing of the present Original Application within a period of three months from the date of receipt of a certified copy of this order.

10. In view of the discussions made above, the impugned order dated 29.03.2016 is quashed and set aside. The respondents are directed to grant widow daughter family pension to the applicant from the date of filing of the present Original Application within a period of three months from the date of receipt of a certified copy of this order. The present Original Application is disposed of with the aforesaid observations and directions. No order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER