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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

D.A NO.688/1991

DATE OF DECISION: 18.9.92

Gandi Devi

.. Applicant

vs.

Union of India through
the General Manager,
Eastern Railway, Calcutta and
Others.

.. Respondents

For the Applicant

.. Shri V.P.Sharma,
Advocate

For the Respondents

.. Shri Romesh Gautam,
Advocate.

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THE HON'BLE SHRI S.P.MUKERJI, VICE CHAIRMAN

THE HON'BLE SHRI T.S.OBEROI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No

J U D G M E N T

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application the applicant is a septuagenarian widow of a Railway employee who retired in 1952 and died in 1979. The husband of the applicant was in receipt of ex gratia pension. The applicant has claimed that she is entitled to family pension and denial of the same is against Article 14 and 16 of the Constitution and has prayed that the family pension should be granted to her with effect from 22.9.77 along with arrears. She has stated that ^{the} ex-gratia pension _{is} was sanctioned to her husband under PPO No.1470(Ex-Gratia) which was being paid to him every month till his death on 25.5.1979. The pension scheme in the

Railway Department came into force from 1.4.57 and before that all the employees were governed by the SRPF Rules. The applicant has stated that on the basis of the judgment of the Supreme Court in Smt. Poonami vs. Union of India dated 30.4.1965, the Govt. of India published a notification dated 18.6.85 in which all the widows of erstwhile Government servants who were not covered by the Family Pension Scheme were brought under this scheme of 1964. Respondent No.3 vide the notification dated 25.2.86 extended this family pension scheme to the families of Railway servants who died or retired before 1.1.64. Accordingly the applicant is entitled to the family pension with effect from 22.9.77 in accordance with that notification along with arrears of pension.

2. In the counter affidavit the respondents have admitted that the husband of the applicant Shri Pyare Lal "was drawing ex-gratia payment from the office of Divisional Railway Manager, New Delhi, under PPO No. 1470. The Associated Accounts Office of D.R.M. Office New Delhi was paying the ex-gratia amount through money order upto the date of death of late Shri Pyare Lal. They have, however stated that in absence of full facts and particulars about Shri Pyare Lal, the respondents could not link up the papers and in case it is proved that the applicant is the legally married wife of late Shri Pyare Lal and that she has not re-married," then only the applicant will be entitled to receive only ex-gratia

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payment and not the family pension as claimed by her".

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. In accordance with the Railway Board's letter dated 26.7.85 addressed to all the General Managers of the Railways, a copy of which has been annexed by the respondents themselves at Annexure R-3, the following provisions, inter-alia, have been made as per the extracts quoted below:-

"3. Sometimes back a section of widows of erstwhile Railway servants who were not covered by the Family Pension Scheme -1964, had filed writ petitions in the Supreme Court of India claiming that the benefits of the Family Pension Scheme, 1964 may also be extended to them.

4. During the hearing of these petitions, the Government made a statement on 15.4.1985 before the Court on their own stating as to what extent the Government would be prepared to accept the claim of the widows. Keeping in view the statement filed by the Government and clarifications subsequently given to the Honourable Court by the Government, the Supreme Court of India delivered its judgment on 30th April, 1985 extending w.e.f. 22.9.77 the benefit of the Family Pension Scheme, 1964 to the families of those Railway servants who were/are borne on pensionable establishment and are not presently covered by that Scheme namely the families of those Railway employees who retired/died before 31.12.1963 and of those who were alive on 31.12.63 but who opted out of the Family Pension Scheme-1964.

Consequent upon the above judgment of the Supreme Court, the President has been pleased to decide that:-

- (a) the benefit of Family Pension Scheme, 1964 may be extended to all the eligible members of the family in accordance with the provisions of this Ministry's letter No. F(P).63-PN 1/40 dated 2.1.64.
- (b) all the eligible persons, including dependents, shall be allowed the increased pension rates as introduced from 1.1.1973; (Estt.Srl.No.5/74).

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- " (c) the arrears of family pension may be granted w.e.f. 22.9.1977 (the date on which contribution of two month's emoluments by pensioners was dispensed with) or from a subsequent date they become eligible for family pension, whichever is later. The benefit will also be available in cases where the death of the pensioner occurs hereafter.
- (d) persons who are now to be granted the benefit of family pension will not be required to contribute two months' emoluments. Similarly, no demand for refund of contribution already made by pensioners will be entertained by the Government; and
- (e) Life-time arrears of family pension would also be payable in respect of widows/ eligible members of the family of the deceased Railway employees who were alive on 22.9.1977 and who died subsequently to this date, for the period from 22.9.1977 to the date of death." (emphasis added)

From the above it is clear that the Family Pension Scheme, 1964 has been extended to the families of those Railway employees who retired or died before 31.12.63. Since the husband of the applicant ^{retired in 1952 and} died in 1979 and was [^] in receipt of ex-gratia pension, he can be deemed to be on the pensionable establishment and thus, the applicant is entitled to the benefit of Family Pension Scheme, 1964, if she is the widow of Shri Pyare Lal and has not re-married. Since the family pension is a recurring benefit, the question of rejecting the application as being time-barred does not arise.

4. In the facts and circumstances we allow this application and direct the respondents to extend the benefit of the Family Pension Scheme, 1964 to the applicant with effect from 22.9.77 if she proves herself to be the married wife of Shri Pyare Lal and has not yet re-married. Arrears of family pension, however, should be given to her from 9.2.88, i.e.,

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three years prior to the date of filing of this application. There will be no order as to costs.

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(T.S.OBEROI)
JUDICIAL MEMBER

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(S.P.MUKERJI)
VICE CHAIRMAN

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