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**Central Administrative Tribunal
Principal Bench**

OA No. 3092/2004

New Delhi, this the ^{30th} day of August, 2005

Hon'ble Mr. Shanker Raju, Member (J)

Naveen Kumar s/o Sh. Baldev Kishan,
L.R. Smt. Saroj Kumari,
W/o Shri Baldev Kishan,
Ex-Head Clerk,
O/O D.S.E.-II,
DRM's Office, Northern Railway,
State Entry Road,
New Delhi.

▼ **Residential Address:**

Naveen Kumar,
AIB/61-C, LIG Flats,
Paschim Vihar,
New Delhi – 110 063.

...Applicant

(By Advocate: Shri G.D. Bhandari)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

...Respondents

(By Advocate: Shri Narain Bhatia)

O R D E R

Applicant, who son of late Smt. Saroj Kumari, who died in harness while serving the Railways, seeks payment of provident fund, arrears of family pension from 1997 till death of his mother and other ancillary retiral benefits.

2. On the sad demise of the father of the applicant, who was serving the Railway, the mother of the applicant was accorded compassionate appointment in September, 1981. Applicant's mother on account of schizophrenic and psychotic remained absent from 03.10.1997 till she passed away on 10.11.2002. However, on reference to Railway Board, the aforesaid break in service had been condoned and this period was rendered as qualifying service. Accordingly, it is not disputed that the applicant had completed 20 years of service, which qualify the applicant to claim the retiral benefits. Deceased was getting family pension, which was stopped in May, 1997 and was not paid till 2002. However, on request of the applicant to accord the benefits of her mother's retiral dues being her legal heir, he was asked to fill up the forms, which were duly acknowledged by the DRM's office. Despite the aforesaid, the retiral benefits have not been paid to the applicant, giving rise to the present Original Application.

3. By virtue of the rejoinder, applicant has produced ample proof to establish that he is the legal heir i.e. real son of the widow, who died while serving Railways. In the Unit Trust Certificates, his name has been nominated; in the railway passes issued by the Railway Authorities, his name is also incorporated as son of the deceased widow. However, the fact remains that widow has not made any nomination in her service book.

4. On the other hand, respondents' counsel Shri Bhatia vehemently opposed the contentions and stated that whereas a daughter of widow since expired, applicant in order to establish his claim is required to submit a succession certificate for release of retiral dues and also regarding pension from 1997 to 2002 the same, if certified and verified,

would establish that the deceased widow had not claimed family pension for this period. However, while referring to the record, it is admitted that 200 leaves are still in her credit.

5. On careful consideration of the rival contentions of the parties and as per State Railway Provident Fund Rules under Rule 901 of the IREM (Vol.I) family of a female subscriber is defined as husband, children including children of the deceased son. Accordingly, son comes within the definition of family and children of the deceased married daughter are not members to claim provident fund. The same definition holds good for gratuity and other retiral benefits. Apart from Railways, Ministry of Finance vide OM dated 4.5.1931 vide letter No. GIFD 1210-R II regarding payment of fund to a legal representative decided that it is not legally necessary in every case to insist for succession certificate. However, identify of the legal representative is to be established beyond doubt, who could claim the benefits of provident fund.

6. Under CCS (CCA) Rules, 1965 for the purpose of pension and gratuity, family is defined under Rule 50(6) which includes husband, son and unmarried daughter but widowed daughter does not include the progeny of married deceased daughter. Cumulative effect of the above to insist for succession certificate is not reasonable. Once the identity of the applicant by virtue of Election Card, UTI certificates, and Railway Passes is clear apart from the fact that sister of the applicant has already died on 7.9.1998 whereas her children are not entitled by way of succession to claim the aforesaid benefits, the applicant, being the lone survivor for want of nomination by the widow mother, is legally entitled to claim of the retiral benefits.

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7. As regards non-payment of family pension for the period from 1997 to 2002, nothing precludes the Railway to have communication with the Bank authorities and on assessment of non-payment, the same may be directed to be paid to the applicant.

8. In the result, OA stands disposed of with a direction to the respondents that in the event the applicant fills up requisite forms relating to PF, gratuity and arrears of family pension and other ancillary benefits, the same shall be released to him. However, an indemnity bond may be sought from the applicant as an abandoned precaution. No costs.

S. Raju
(Shanker Raju)
Member (J)

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