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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

D.A.No.1456/1993

New Delhi, This the 26th Day of July 1994

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Smt Janak Kishori aged about 55 years,  
W/O Late Shri Ram Sahai, Ex- Driver  
Loco Shed, Central Railway, R/D/ C/O  
Smt Asha 33, Holi Family Mashih Charch,  
New Delhi.

...Petitioner

By Shri H P Chakravorty, Advocate

Vs

Union of India Through:

1. The Secretary  
Ministry of Railways, Rail Bhawan  
New Delhi.
2. The General Manager  
Central Railway,  
Bombay V T.
3. The Divisional Railway Manager  
Central Railway  
Jhansi.

...Respondents

By Shri H K Gangwani, Advocate

ORDER(Oral)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. This OA has been filed seeking a direction for release of family pension to the applicant.
2. It is not disputed that the husband of the applicant died in August 1984 and that he was governed by the State Railway Provident Fund Scheme. The deceased employee during his service period had not opted for pension/family pension. However, it is the case of the applicant that irrespective of the applicant's husband having been settled under the SRPF Scheme the applicant should be considered eligible for family pension scheme. Reliance was placed on

Railway Ministry's letter No.F(E)III-85/PNI/19

dated 26.7.85 wherein paras 4 and 5 reads as under:

" Para 4 . During the hearing of these petitions, the Government made a statement on 15-4-85 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 judgement 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 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.

5. Consequent upon the above judgement of the Supreme Court of India, 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-PNI/40 dated 2.1.1964.

{b} ...  
{c} ...  
(d) ...  
(e) ....

It is the case of the applicant that families of Railway employees who were alive on 31.12.63 but who opted out of the family pension scheme 1964 should be given the benefit of family pension on the strength of the above instructions.

3. On the other hand, it is the case of the respondents that family pension scheme is part of Railway Pension Scheme rules. The applicant's husband was in service prior to 1957 and at the time of the introduction of the pension scheme in the year 1957 and at other later dates whenever an opportunity was given to the applicant's husband, he never chose to opt for the pension scheme but preferred to continue in the SRPF scheme. Pension Rules, in the context are applicable only to those railway servants who were in service on 16.11.1957 and who had elected to be governed by these rules. Family pension scheme as introduced in 1964 was available to only such pensioners and the very fact that the scheme of ex-gratia payment to the families of deceased CPF retirees had to be separately sanctioned effective from 1.1.86 would clearly bring out that the family pension scheme is not applicable to CPF beneficiaries.

4. I pursued the Railway Service Pension Rules 1993 and in Rule 2 on the applicability of rules I find that the pension rules apply only in the following cases:

"2. Application. Save as otherwise expressly provided in these rules, these rules shall apply to the following railway servants, namely:-

- 1) any Group D railway servant whose service was pensionable before the

introduction of Pension system for Railway Servants on the 16th day of November 1957.

2) any non-pensionable railway servants who was in service on the 16th day of November, 1957 and who elected to be governed by these rules,

3) any non-pensionable railway servant who was in service on the 1st day of January, 1986 and did not opt to be governed by the State Railway Provident Fund(Contributory) Rules: and

4) any person entering railway service on or after the 16th November, 1957, except a person who is appointed on contract or re-employed after super-annuation or whose terms of appointment specifically provide to contrary."

5. I also find that Rule 75 of the Railway Service Pension Rules 1993 namely Family Pension Scheme for the Railway servants 1964 is a part of Part I of the Railway Service Pension Rules.

Thus the family pension scheme is not open to those settled under SRPF. I also find force in the argument that if the families of SRPF beneficiaries are also to be governed by the family pension scheme there will be no logic in the formulation of the scheme of ex-gratia payment to families of deceased SRPF retirees, which scheme had been spelt out by Government of India subsequent to the consideration on the Fourth Pay Commission

## Recommendations.

6. Under these circumstances, I hold that the applicant is eligible only for the ex-gratia payment to families of deceased SRPF retirees. Accordingly I direct the respondents to arrange for the release <sup>fin</sup> of the ex-gratia payment as per rules within ~~three~~ months of the receipt of this order. The DA is disposed of with the above direction. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)  
Member(A)

LCP