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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A. No.452/93

New Delhi this the 2nd Day of December, 1993.

Hon'ble Sh. B.M. Dhoundiyal, Member(A)

Smt. Narayani Devi
W/o Late Sh. Bhoma,
RZ-B21, Indra Park, Palam Colony,
New Delhi-45.

Petitioner

(By Advocate Sh. V.P. Sharma)

versus

1. Union of India
through the General Manager,
Western Railway,
Churgate, Bombay.
2. The Divisional Railway Manager,
Western Railway, Jaipur.
3. The Secretary,
Railway Board's Rail Bhawan,
New Delhi.

(By Advocate Sh. Romesh Gautam)

ORDER

Smt. Narayani Devi is aggrieved that she has not been granted family pension due to her with effect from 22.9.1977.

According to the applicant she is the widow of late Sh. Bhoma who was a Railway employee and was posted at ELF, Bandikui under Western Railway, Bandikui in Jaipur Division. He died on 2.2.1974. He had worked from 20.5.1935 to 1968 and was not receiving any pension till his death. After the judgement of the Supreme Court in the case of Smt. Punnamal Vs. Union of India dated 30.4.1985 the Government of India published a Notification on 18.6.1985 bringing the widow earstwhile government servant under the Family Pension Scheme of 1964. This scheme was extended by Railway Board Notification dated 23.2.1986 to

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the families of the Railway employees who died or retired before 1.1.1964. The respondents have taken a unreasonable attitude that the Family Pension Scheme is not applicable to the families of the Railway employees who retired/died before 1.1.1964 and who were not covered by the pension scheme. She has prayed that the respondents be directed to consider the case of the applicant for grant of family pension w.e.f. 22.9.1977 alongwith arrears.

In the counter filed by the respondents the main averments made are these. The husband of the applicant Sh. Bhoma had taken voluntary retirement from service w.e.f. 17.07.1966. The family pension nwas admissible to the Railway employees who entered in service in a Pensionable Establishment on or after 1.1.1964 and also who were in service on 31.12.1963 and came to be governed by the Provision of Pension Scheme. The application is time barred as the cuase of action arose on 2.2.1974 at the time of death of Sh. Bhoma Sharma and not after 19 years in 1993. The husband of the applicant was under non-Pensionable Scheme at the time of his retirement and all his dues were settled accordingly.

I have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the applicant has relied on the judgement of a Division Bench of this Tribunal in Gandi Devi Vs. U.O.I. through the General Manager, Eastern Railway, Calcutta & Ors. The learned counsel for the respondents contended that the Government has filed SLP in the Supreme Court against this judgement. In the case of Gandi Devi her husband retired in 1952 and died in 1979 and was in receipt

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of ex gratia pension. Thus the Tribunal found that he could be deemed to be on Pensionable Establishment and thus entitled to the benefit of Family Pension Scheme 1964.

It is in the rejoinder for the first time a specific averment has been made that the husband of the applicant was borne on the Pensionable Establishment. As a matter of fact in para 4.11 of the O.A. the applicant has mentioned that "It will be unreasonable if the family pension is not applicable to the families of the Railway employees who were retired/died before 1.1.1964 and were not covered by the Pension Scheme." In view of this, this case is distinguishable from the case of Gandi Devi and it cannot be held that the husband of the applicant was born on a Pensionable Establishment. The applicant has failed to make out a case and the O.A. is hereby dismissed.

No costs.

B.N. Dhundiya
(B.N. Dhundiya) 2/8/73

Member (A)

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