

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.56 of 2004

Allahabad, this the 4th day of April, 2008

Hon'ble Mr. Justice Khem Karan, Vice-Chairman

Km. Zarina Begum daughter of Late Mohd. Shamusuddin Farooqui, C/o Mohd. Yahiya Farooqui, R/o Mohammadpur Bazar, P.O.Mohammadpur District-Azamgarh.

...Applicant.

(By Advocate : Shri S. Ahmad)

Versus

1. Union of India through General Manager (P), North Eastern Railway, Gorakhpur.
2. Senior Personnel Officer/Traffic, North Eastern Railway, Gorakhpur.
3. Divisional Railway Manager (P), North Eastern Railway, Varanasi.

...Respondents.

(By Advocate : Shri D. Awasthi)

ORDER

Claiming herself to be unmarried and visually handicapped daughter of Late Shri Mohd. Shamusuddin Farooqui, who retired on 30.9.1976 and subsequently died on 10.3.1979 as a pensioner of the respondents, the applicant has filed this OA for quashing letter/order dated 8.10.2003, by which her request for grant of family pension has been rejected and has also prayed for commanding the respondents to sanction to her family pension as per rules.

2. Her case in brief is that her father Late Shri Mohd. Shamusuddin Farooqui was in employment of the respondents and after his retirement on 30.9.1976, was sanctioned pension as per rules which he

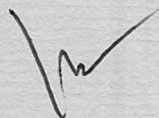


received till his death on 10.3.1979. She says that after the death of her father, family pension was given to her mother who also died on 31.10.2001, leaving her as only heir entitled to receive the family pension. She goes on to state that the District Magistrate, Azamgarh also issued a succession certificate (Annexure-A-3) as back as on 24.3.1979 saying that she was daughter of Late Shri Farooqui and the Chief Medical Officer, Azamgarh issued a certificate dated 30.4.2002 (Annexure-A-4) certifying that she was visually handicapped. Her contention is that under the rules she being physically handicapped unmarried daughter of Late Shri Mohd. Shamusuddin Farooqui, is entitled to family pension but respondents have turned down her request solely on the ground that mother of the applicant did not give her name as next recipient of the family pension. She alleges that she has no means to make the both end meet and was in penury.

3. The respondents have filed reply saying that it is doubtful whether the applicant is daughter of Late Shri Mohd. Shamusuddin Farooqui, as there are discrepancies as regards her age and her mother never disclosed her as unmarried daughter, so the family pension was rightly refused.

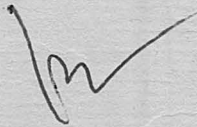
4. I have heard Shri S. Ahmad, learned counsel for the applicant and Shri D. Awasthi, learned counsel for the respondents.

5. There appears to be no dispute as regards the legal position that under the relevant rules regulating the grant of family pension to the legal heirs of the deceased Railway servants, a physically disabled unmarried daughter, is entitled to the family pension in accordance with the rules. It is



not the contention of the respondents that such a physically disabled unmarried daughter of the deceased servant is not entitled to the family pension. Their only case is that in papers submitted by the mother of the applicant, she was not shown as unmarried daughter. They are doubting whether the applicant is daughter of Late Shri Mohd. Shamusuddin Farooqui. On the one hand, the respondents say that relevant papers relating to the pension of Late Shri Mohd. Shamusuddin Farooqui, are not available in the office and on the other they are saying that Late Shri Mohd. Shamusuddin Farooqui did not give the name of the applicant as his unmarried daughter. The applicant has filed extract from Kutumb Register and succession certificate issued by District Magistrate, supporting her case that she is an unmarried daughter of Late Shri Mohd. Shamusuddin Farooqui. She has also filed a medical certificate issued by the Chief Medical Officer concerned certifying that she is blind. A discrepancy as regards her age, in one or other certificate or paper should not constitute sufficient material, for rejecting her contention that she is unmarried daughter of Late Shri Mohd. Shamusuddin Farooqui.

6. I am of the view that absence of name of the applicant in the papers as daughter of Late Shri Mohd. Shamusuddin Farooqui, should not be sufficient enough to reject her claim. The respondents can verify the factum of her being the unmarried and physically disabled daughter of Late Shri Mohd. Shamusuddin Farooqui. I think the rejection without enquiring into the genuineness of her claim is not sustainable and deserves to be quashed.



7. So, the OA is finally disposed of and impugned letter dated 8.10.2003 is quashed with a direction to respondent No.1 i.e. General Manager (P), North Eastern Railway to get the claim of the applicant for family pension investigated by appointing some suitable person and act accordingly, within a period of four months from the date a certified copy of this order is produced before him, No costs.

[Handwritten signature]
04.11.08

Vice-Chairman

RKM/