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RESERVED:

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 8 DAY OF JULY, 2006
Original Application No. 1317 of 2005

CORAM

HON. MR. JUSTICE KHEM KARAN, V.C.

Smt. Vimlesh Sonkar
widow of Late Satyakam Sonkar
House No. 527/A-1, Unchbagarhi
Rajapur, Allahabad.

.. Applicant

(By Adv: Shri R.K. Srivastava)

Versus

1. Union of India through
the general Manager,
North Central Railway,
Allahabad.
2. The Divisional Rail Manager
North Central Railway
Allahabad.
3. The Welfare Inspector,
Northern Railway, Kanpur.
4. Senior Section Engineer (Carriage & Wagon)
North Central Railway,
Kanpur.


.. Respondents.

(By Adv: Shri Avnish Tripathi)

ORDER

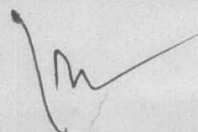
JUSTICE KHEM KARAN, V.C.

Satyakam Sonkar, husband of the applicant was working as Helper Khalasi bearing Ticket No. 439 under respondent No. 4 at Kanpur. On 7.8.04 he died leaving behind him the applicant, a minor daughter, mother etc. The death was not normal one as alleged. The mother namely, Smt. Shanti devi lodged one FIR alleging therein that the applicant and her blood relations abetted the suicide of her son Satyakam Sonkar. Copy of this FIR is (Annexure CA-4). A suicide note (photo copy of which is CA-II) allegedly in the handwriting of late Shri Satyakam Sonkar was also allegedly recovered from the place where this suicide was committed. The



sum and substance of this note is that because of the continuous torture meted to him by his wife Vimlesh Sonkar and her parents that he was going to end his life. He also stated that landed property and service should not go to Vimlesh. The allegations are being investigated by the police on the basis of the FIR lodged by mother of the deceased.

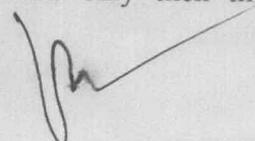
2. The applicant has filed this OA praying that the respondents be directed to pay her and her minor daughter the family pension and other benefits such as GPF, as may be admissible to them as per rules on premature death of Shri Satyakam Sonkar. Her grievance is that though she has given applications/representations such as (Annexures 3,4&5) to the DRM, North Central Railway, Allahabad for giving her compassionate appointment, releasing family pension, GPF etc but nothing has been done in this regard. She has said that after the death of her husband she has no sufficient means of livelihood and she is fully entitled to the benefits mentioned above and also to appointment on compassionate ground as she is intermediate pass.
3. The respondents have opposed this OA by filing a written reply. The sum and substance of their defence is that since there are serious allegations against the applicant that she abetted the suicide of her husband and since those allegations are being inquired into by the police on FIR lodged by Smt. Shanti devi, the mother of the deceased so the decision as regards the compassionate appointment family pension etc could not be taken and it all shall be decided on the result of pending investigation.
4. Shri R.K. Srivastava, the learned counsel for the applicant has contended that grant of family pension is not regulated by a will or wish of the deceased government employee but by rules. A reference to Smt. Violet Issac and others Vs. Union of India and Others, Supreme Court Service Rulings Vol.II has been made to support the said argument. On the other hand, the learned counsel



for the Railways has referred to Rule 75 (14) (i) of the Railway Services (Pension) Rules-1993 which provides:-

“ If a person, who in the event of death of a railway servant while in service, is eligible to receive family pension under this rule, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, the claim of such a person, including other eligible member or members of the family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him.”

5. He says that so long as the criminal investigation into the allegations made against the wife is pending, no decision as regards the family pension can be taken and so the decision thereon is being deferred, but the learned counsel for the respondents has not been able to say anything as to on what ground or on the basis of which rule compassionate appointment and other matters are being deferred or being postponed. The learned counsel for the applicant has also argued that if family pension cannot be paid to the wife on the ground that criminal investigation is pending against her, it could be paid to the minor daughter but the difficulty is that the scheme of family pension does not envisage Payment of family pension to other eligible persons unless the first one dies or becomes ineligible. In other words, so long as the applicant being widow is there, number of the minor daughter will not come. Secondly, rule 75(14)(1), if applicable, itself says that the claim of such person including other eligible persons or members of family to receive the family pension shall remain suspended. I am not expressing any opinion whether this rule can be pressed into service to defer the matter relating to the grant of family pension. The reason is that I am of the view that the respondents should be asked to pass a speaking order first, as regards the compassionate appointment, grant of family pension, release of GPF and other dues only then the



Tribunal may be in a position to examine whether the decision so taken is as per rules just or unjust. The mother of the deceased who has lodged FIR is not before me. More over, the views of the department as regards the compassionate appointment, release of PF etc are also not there. Things have been confined to family pension only. Whether the claims such as mentioned above of widow can be deferred or postponed on the grounds that there is an allegation that she abetted the suicide of her husband appears to be an important issue.

6. Considering all the facts and circumstances of the case the respondent no.2 is directed to pass a speaking order on the application dated 15.8.04 (Annexure 3), and 13.1.05 (Annexure 4) of the applicant in the light of relevant rules/orders within a period of four months from the date a certified copy of this order is produced before him together with the copy of the said application. It is made clear that the applicant shall have liberty to approach this Tribunal if she is aggrieved of any such order or part of the order.

[Signature]
18.7.06
VICE CHAIRMAN

Dated: July 18, 2006