

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD

(This the 02nd Day of September, 2021)

Hon'ble Mrs. Justice Vijay Lakshmi, Member (Judicial)

Original Application No.330/01348/2018

Km. Bani Biswas aged about 66 years, daughter of Late Shri Dhirendra Nath Biswas, Presently resident at 191/14, Lavkush Colony, Himmatganj, Allahabad.

..... **Applicant**

By Advocates: Shri S.K Kushwaha

Versus

1. Union of India through the General Manager, North Eastern Railway, Headquarter Office, Gorakhpur.
2. General Manager, Northern Eastern Railway, Gorakhpur.
3. Finance Advisor and Chief Accounts Officer, N.E. Railway, Gorakhpur.
4. Divisional Railway Manager, North Eastern Railway, Varanasi.
5. Senior Divisional Finance Manager, North Eastern Railway, Varanasi.

..... **Respondents**

By Advocate: Shri N.C. Srivastava

ORDER

Heard Shri S.K. Kushwaha, learned counsel for the applicants and Shri N.C. Srivastava, learned counsel for the respondents and perused the record.

2. The applicant herein is unmarried daughter of deceased Railway employee Late Sri Dhirendra Nath Biswas, who had retired on superannuation from the post of Conductor on 31.10.1968. He was sanctioned pension in accordance with the prevalent Rules.

Unfortunately he died on 18.12.1989. The mother of the applicant being pre-deceased and the applicant being wholly dependent on her father, applied for family pension and was granted family pension in accordance with the DOPT OM dated 06.09.2007 whereby an unmarried daughter of the Government servants/pensioner, beyond 25 years of age has been made eligible for family pension, at par with the widowed/divorced daughters, subject to fulfillment of certain conditions. The applicant, having no independent source of income, submitted her income certificate prescribed by the Competent Authority i.e. Tehsildar, Sadar, Allahabad, along with domicile certificate and unemployment certificate as well as certificate regarding her marital status with affidavits. However, the grievance of the applicant is that family pension was granted to her from 15.12.2017 and not from 6.9.2007 from which date she had claimed her entitlement to get the family pension. The claim of the applicant was denied by the respondents only on the ground that she has not submitted income certificate from 06.09.2007 to 14.12.2017, therefore, she is entitled for family pension only w.e.f. 14.12.2017.

3. Learned counsel for the applicant has submitted that the income certificate relating to past years from 2007 to 2017 could not be supplied to anyone as per Rules, therefore, it is impossible for the applicant to submit the same before the respondents and the respondents being very well aware of this rule, should not have made such unreasonable demand.

4. It is further contended that respondents department itself has paid family pension to one Ms. Falguni Dey from 06.09.2007 to 27.2.2017 vide order dated 2.5.2017, passed by Pension Payment Order Issuing Authority. Copy of the said order has been annexed as Annexure RA-1 to the rejoinder affidavit and the respondents have not filed any rebuttal against the same (RA-1)

5. On the aforesaid ground, it has been prayed that respondents may be directed to consider the difficulty of the applicant in supplying the income certificate of past years i.e from the year 2007 to 2017 and to give the amount of family pension for such period to the applicant also, as given to Ms. Falguni Dey without any discrimination.

6. Per contra, learned counsel for the respondents has vehemently opposed the prayer by contending that without having income certificate of the past years from 2007 to the year 2017, the arrears of family pension cannot be granted to the applicant.

7. I have given thoughtful consideration to rival contentions of Id. counsel for the parties.

8. Learned counsel for the respondents has filed a supplementary counter reply against the rejoinder affidavit, in para 4 of which the reply of para 2 of the rejoinder affidavit is given wherein it has been mentioned that the income certificate showing income below Rs.2500/- per month is required as per Railway Board's letter No. 1/19/03/P&PW (E) dated 06.09.2007 and after submitting income certificates issued by Tehsil between

06.09.2007 to 14.12.2017 to the department, the further proceeding could be started by the department for paying the arrears of pension. However, in the supplementary counter affidavit, there is no whisper about the payment made to Ms. Falguni Dey from 2007 to 2017. Neither any rebuttal of Annexure RA-1 filed by the applicant has been filed by the respondents, nor it has been denied.

9. As no rebuttal has been filed by the respondents against Annexure RA-1 and keeping in view that the applicant is at no fault in not providing her income certificates of past years because the Tehsildar is not entitled to issue income certificates of past years and income certificates of current year only can be issued by him and moreover, the respondents themselves have paid another incumbent Ms. Falguni Dey, the arrears of family pension since 06.09.2007 to 28.02.2017, the OA deserves to be allowed.

10. Accordingly, the O.A. is allowed. The respondents are directed to reconsider the case of the applicant for payment of arrears of family pension, in the light of their own order passed in the case of Ms. Falguni Dey (Annexure RA-1). No order as to costs.

(Justice Vijay Lakshmi)
Member (J)

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