

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1175 OF 2002

ALLAHABAD THIS THE 7TH DAY OF OCTOBER,2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Smt. Balaji,

W/o Late Jagnandan,

(Ex. Gangman under P.W.I. Eastern  
Railway Suri), R/o Village-Manikathi,  
P.O. Jigna, District-Mirzapur.

.....Applicant

( By Advocate Sri Sudama Ram )

Versus

1. Union of India,  
through the General Manager, Eastern Railway,  
Headquarter (CCC) Kolkata.
2. Divisional Railway Manager,  
Eastern Railway, Asansol.
3. Sr. Divisional Personnel Officer,  
Eastern Railway, D.R.M.'s Office,  
Asansol.
4. P.W.I./S.S.E. (P.Way),  
Eastern Railway, Suri,  
(Asansol Division ).

.....Respondents

( By Advocate Shri Anil Kumar )



O\_R\_D\_E\_R

By this O.A. applicant has sought a direction to the respondents to grant Family Pension in favour of the applicant with effect from 1.1.2001 i.e. after the death of her husband, a Railway Pensioner. She has further sought a direction to the respondents for quashing of the order dated 9.7.2002 (Annexure-1) <sup>and to pay her pension B</sup> <sub>as per 7th Pay Commission</sub> and to pay her all the arrears alongwith 18% compound interest on delayed payments.

2. The brief facts as stated by the applicant is that she is widow of Late Jagnandan who was working as Gangman under P.W.I., Eastern Railway, Suri Asansol Division. Since he was mentally depressed and was under treatment for a long time, he was asked to take voluntary retirement which was accepted w.e.f. 15.02.1990.

3. After his Voluntary retirement, he was granted pension vide P.P.O. No.191/UP/11715/ASN which was drawn from Post Office Jigna District-Mirzapur by the pension Disbursing Authority payable w.e.f. 16.2.1990. Her husband ultimately died on 31.12.2000 where after applicant approached the concerned Post Office, Jigna, District-Mirzapur for her family pension. When she came to know that her name had not been mentioned by the employee as her husband had written herself to be a widower.

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4. It is submitted by the applicant that in his pension forms he has nowhere mentioned that he was a widower but has mentioned the name of only three sons for getting the settlement dues whereas applicant the widow of the deceased employee was still alive and she had four sons. It is submitted by the applicant that the forms were filled by the officials, therefore, <sup>wrongly</sup> <sup>12</sup> they have shown the deceased employee to be a widower. Since her husband was an illiterate person his thumb impression were taken on the said forms. It is submitted by the applicant that she is a legally wedded wife of the deceased employee, therefore, she is entitled for family pension after the death of her husband on 31.12.2000. In support of her claim she has annexed <sup>1</sup> certificate dated 30.12.2000, <sup>2</sup> extract of Voter list on 1999 wherein applicant is shown to be wife of Jagnandan. <sup>3</sup> Photostate copy of Identity card issued by the office of the Election Commission.

(4) Other certificates dated 22.3.2001 from Shri Bhai Lal Kol, MLA to show that she is the wife of Late Jagnandan and affidavit of applicant. Her representation was, however, rejected on the ground that since Late Jagnandan had declared himself to be a widower and survived by three sons only, Her request for sanction of family pension as widow of Late Jagnandan cannot be considered (Page 18). It is this letter which has been challenged by the applicant in this O.A.



4. Learned counsel for the applicant

further relied on the judgment dated 13.12.2001

reported in 2002(1) 611 ATJ to insist that there

was no need to produce succession certificate

as respondents cannot be directed to consider

the claim of the applicant on the basis of

material available and produced by the widow.

5. I have seen the judgment wherein two ~~xxx~~

<sup>to be</sup>

women had claimed <sup>the</sup> wife of the deceased employee

and had applied for family pension. One of them

was able to produce the Legal Heirship certificate

which was issued after the Gazette notification

inviting objections if any in this regard. Respondents

insisted that lady <sup>should B</sup> ~~to~~ produce the succession certificate

It was in these circumstances that the Tribunal held

that there was no need to produce succession certificate

but in the present case ~~is any~~ ~~mine~~ it is not the

fight between ~~the~~ two ladies but the employee himself <sup>me,</sup> ~~he~~ to be a widower, therefore, according to ~~him~~ the

declared himself



Judgment relied upon by the applicant's counsel ~~is~~ not <sup>would be</sup> applicable in the present case.

5. Respondents on the other ~~side~~ <sup>hand</sup> have opposed this O.A. on the ground that at the time of Voluntary Retirement employee had furnished details of his family members for purpose of family pension in form no.6 wherein he declared himself as a widower and survived by three sons only namely Averaj, Hinchlal and Ramraj which was duly signed by contemporary railway employee and counter signed by P.W.I./Eastern Railway/Siuri (Under whom he was working). Similar declaration was also given by him in his nomination Form for payment of O.C.R.G. as well as G.I.S. which are all annexed with the counter affidavit. They have thus, submitted that family pension is not to be paid to the applicant in these circumstances. They have further submitted that the husband had filled up the forms in 1990 which were very much in the possession of applicant but she never challenged the same and has filed the present O.A. only in the year 2002, therefore, this O.A. is barred by limitation. They have further explained that as per official record there is no information regarding any kind of mental depression of Jagnandan nor there is any such application given by him. He has applied for Voluntary Retirement which was accepted w.e.f. 15.02.1990 and while filling up the forms he has written that he was survived by three sons and himself as a widower. Therefore, naturally the claim of applicant cannot be considered. Since he had given name of only three sons who were all major, therefore, as per rules they were not entitled for any family pension. They have



thus prayed that the O.A. may be dismissed as there is no merit in the O.A.

6. I have heard both the counsel and perused the pleadings as well.

7. Counsel for the applicant strenuously argued that second class pass was issued on 08.02.1990 in favour of applicant which shows that applicant ~~was~~ <sup>was</sup> very much alive in the year 1990. However, perusal of the annexure shows that the forms were filled by the deceased employee on 7.6.1990, therefore, what is relevant is status as on 7.6.1990. If the employee himself declared to be a widower, naturally any claim made by any lady claiming to be a widow cannot have been entertained by the authorities. Of course, applicant had a remedy available to her in law as she could have taken a succession certificate from the competent court of law but no such succession certificate is on record. Applicant has annexed number of certificates from different persons to show that she is the widow of Late Jagnandan. In case she had all the evidence in her favour, it would be better to get succession certificates so that necessary action could be taken by the authorities on the basis of the said succession certificate. In the present circumstances I cannot give a direction to the respondents to issue family pension to the applicant but it will be still open to the applicant to file a civil suit for succession and in case she succeeds in getting succession certificate



she can produce the same before the authorities for claiming Family pension from the date when her husband died. In case, applicant produces the succession certificate as mentioned above, respondents shall pass necessary orders thereon, *within a reasonable time.*

6. With the above observations, this O.A. is disposed off with no order as to costs.



Member-J

/ns/