

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 780 OF 2003.

Allahabad this the 20th day of May 2004.

Hon'ble Mrs. Meera Chhibber, Member-J

Vimla Devi W/o Late Shri Sattan Lal,
Ex-gangman under P.W.I. Mirzapur, Now designated
as Senior Section Engineer, Northern Railway, Mirzapur,
R/o Village Baisanpur, Post Bijaipur, District- Mirzapur.

.....Applicant.

(By Advocate : Sri Sajnu Ram)

V E R S U S

1. Union of India through General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Section Engineer North Central Railway, Mirzapur.

.....Respondents.

(By Advocate : Sri G.P. Agarwal)

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. applicant has sought the following relief(s):

"(a) to direct the respondents to fix pension in accordance with the rules and to arrange the payment of difference of pension DCRG and commutation along with 25% interest from the following dated of 03.09.1994 to the date of payment respondents may also be directed to produce records of the case before this Hon'ble Court .



(b) To direct the respondents to give the pension book, pension payment order and other papers relating to the payment of settlement dues.

(c) To grant any other and further relief which this Hon'ble Court may deem fit and proper."

2. It is submitted by the applicant that her husband died on 02.09.1994 in Northern Railway Hospital while working as Gang man/Trackman. She has submitted that pension papers, P.P.O. and other papers relating to settlement dues were not given to her and she was paid pension after 15 months @Rs.2375/- It is further submitted by the applicant that sum of Rs.67,000/- were also paid to the applicant on the name of settlement dues of P.F. Leave salary and Life Insurance without giving any papers relating to it. It was orally told by the respondent No.3 that this amount of Rs.67,000/- is pertaining to PF, leave salary and Life Insurance. *However* When the applicant requested the respondent No.3 to give the papers relating to the settlement dues of her husband, she was told that no papers are given. It is stated that the husband of the applicant was a permanent Railway employee and he died on the above date seven years before his normal retirement on 30.09.2001 after rendering his services for more than 28 years in the Railway.

3. Her grievance is that she is entitled to get gratuity as well as commutation of pension up to 1/3rd of pension but the same was not paid to her. She has further submitted that the pay of her husband was Rs.3467/- per month therefore, she was entitled to get Rs.3467/- as pension. Being aggrieved she gave number of representations on 10.08.1997, 05.07.1998, 12.11.2002 but since



no reply was being given she had no other option but to file the present O.A.

4. Respondents on the other hand have submitted that Provident fund was paid Rs.36,212/- and death gratuity was paid Rs.31,104/- Out of this amount over payment of wages ^{total 72} Rs.884/- and outstanding Society Loan Rs.8186/- ^{This} (Rs.9070/-) was deducted. Net amount was paid Rs.22,034/- on 19.04.1996. Group Insurance paid Rs.17,614/- on 08.02.1996. Family pension with enhanced rate Rs.540/- is being regularly paid plus dearness. No leave was due. It is further submitted that total Rs.75860/- was paid. Payment was made without delay, after completion of formalities. Hence nothing is due. It is also submitted that commutation is not applicable where family pension is paid and codified law is applicable Rule 70 & 75 of pension Rules. They have further submitted that all settlement dues were paid in 1996 itself and no representation was ever received by respondents therefore, the O.A. which has been filed in 2003 is barred by limitation. They have, submitted that application was received by PW-I on 12.01.1995 and after due verification payments were made to the applicant by way of settlement. They have annexed annexures in support of their averments. Applicant has filed rejoinder and submitted that no recovery can be made from Death-cum-retirement gratuity after death of her husband. It is also stated that neither any over payment had been made nor there were any outstanding society Loan of Rs.8,186/- against the husband of the applicant. No



proof has been filed by the respondents to this effect nor any legal reply has been filed so far by the respondents themselves.

5. I have heard both the counsel and perused the pleadings as well.
6. Perusal of the annexures show that applicant was paid an amount of Rs.17,614/- on account of group insurance on 09.02.1996, Rs.22,034/- on account of DCRG on 23.04.1996 but it does not show how/why deduction were made but shows cheque for Rs.22,034 paid for share of DCRG whereas according to respondents own reply the amount of Rs.31,104/- was to be paid as gratuity out of which over payment of wages for Rs.884/- and outstanding society loan of Rs.8186/- total Rs.9070/- was deducted but this deduction is not shown in any of the annexures. After all if any amount was due from deceased and had to be deducted at least the same should have been informed to the applicant and she should have been shown the records to satisfy her that the amount has correctly been deducted. In the instant case, no such document is coming forth so the grievance of applicant to this extent is found to be valid.
7. It is further seen that PP was paid on 07.04.1995, DCRG on 24.11.1995 Group Insurance on 09.02.1996 Family Pension on 31.03.1996 whereas applicant's husband had died on 02.09.1994. Admittedly PW I got the application from applicant on 12.01.1995. At best the payments should have been made

A handwritten signature in black ink, appearing to read 'S. J.' followed by a stylized surname.

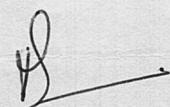
within 3 months thereafter. Respondents have not explained the delay at all. In fact pension payment advise was also issued only on 31.01.1996 i.e. after almost a year. The only payment made within 3 months from receiving the application is provident fund as that was paid on 01.04.1995. Rest of the payments are all delayed payments that too without giving any papers to the applicant. Her whole grievance in the O.A. is that no papers of settlements were given to her.

8. It goes without saying that applicant is entitled to know the breakup when payments are made so that she knows what was due and what has been paid to her therefore, respondent No.2 is directed to personally look into the matter and find out why/how recovery was made from the gratuity as there is no such document on record. If indeed ~~some~~ recovery was due from the deceased, applicant should ^{have been} informed about it by giving her the details and proof. In case nothing was due, he shall find out, who was responsible for such deductions and make ~~up~~ the payments to applicant of the amount deducted from DCRG. He shall also look into the matter why ~~delayed~~ had taken place in making the payment of pension and DCRG. From the reply filed, it seems application was given by applicant on 12.01.1995 itself.

9. In the reply it is vaguely averred that payments were made within time without attributing any delay to the applicant which means delay took place in the department, therefore, respondent No.2 shall fix the responsibility and pay interest



@9% on delayed payments from April 1995 onwards till they were actually paid. Her request for re-fixation of pension and gratuity and for commutation of pension is found to be devoid of merit. The same is accordingly rejected. However, as stated above, the O.A. is disposed off in terms of directions given in ^{and 9 B} para 8 above. No order as to costs.



Member(J)

shukla/-