

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 11th day of November, 2003.

Original Application No. 828 of 2003.

Hon'ble Mrs. Meera Chhibber, Member- J.

Somevati W/o Late Ganga Ram
Gangman under PWI (Track), N. Rly., Subedarganj.
R/o Vill. Kacchanpurwa, P.O. Sunderpur Gajain,
Distt. Kanpur Dehat.

.....Applicant

Counsel for the applicant :- Sri K.S. Saxena

V E R S U S

1. The Union of India through General Manager,
North Central Railway., Allahabad.
2. The Divisional Railway Manager, North Central
Railway, Allahabad.
3. The P.W.I (Track Depot), NCR,
Subedarganj, Allahabad.

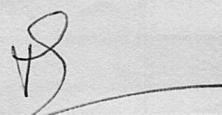
.....Respondents

Counsel for the respondents :- Sri S.K.Rai

O R D E R

By this O.A applicant has sought following reliefs :-

1. The respondents be directed to fix and pay family pension to the widow applicant from the date of death of her deceased husband on 03.12.1992 upto her survival in life.
2. The respondents be also directed to pay arrears of the family pension to the widow applicant with 10% interest.
3. Any other relief/s that this Tribunal may consider fit and appropriate under the circumstances of the case.
4. The respondents be directed to pay cost of the suit to the applicant.



3. It is further submitted by the applicant that she is an illiterate lady, she was not aware ^{of R} the fact that she was entitled for family pension. When she was advised by someone to request the authorities for grant of family pension, thereafter she came to know about this. Her financial condition was so bad ^{that} and she could not seek legal remedy for want of payment of fee to the Advocate. It is further submitted that when she arranged the money she filed the present case. Learned counsel for the applicant has relied on the judgment given by the Hon'ble Supreme Court in case of S.K. Mastan Bee Vs. G.M., South Central Railway and others 2003 SCC (L&S) 93 wherein Hon'ble Supreme Court has held as under :-

"A. Pension-Family pension- Right of illiterate widow of a petty employee, and obligation of employer, in respect of- Where a Gangman under the Railways died while in service and his widow illiterate and unaware of her right to family pension and the remedy to enforce that right, held, it was obligatory for the Railways to compute the payable family pension and offer the same to the widow even without the making of a claim or initiation of litigation on her part- The very denial of pension to her violated Art. 21- Moreover, in the said circumstances, the Single Judge of High Court rightly granted the arrears of pension to the widow from the date of death of her husband in

1969 and the Division Bench erred in restricting that right to a period subsequent to the date (in the year 1992) on which the widow had given a legal notice to the Railways- Constitution of India, Art. 226- Delay/Laches- When not fatal to a very old claim- Constitution of India, Art. 21- Livelihood- right to family pension- Pension- Generally-Duty of the employer to pay family pension in certain case without being demanded.

B. Constitution of India- Art.226 and 21- Maintainability- Delay/Laches- Where the petitioner was an illiterate widow with meagre resources who had been deprived by the Railways of her Gangman husband's arrears of family pension, held, the petition and claim was maintainable despite delay."

4. Sri S.K. Rai, learned counsel for the respondents on otherhand opposed this O.A on two grounds. Firstly that it is barred by limitation and secondly, because the applicant has not approached the authorities at all before filing this O.A, therefore, it is submitted by the counsel for respondents that this case is not maintainable under section 20 of Administrative Tribunals Act, 1985.

5. I have heard both the learned counsel for parties and perused the pleadings as well. In the judgment given by the Hon'ble Supreme Court in ^{the S} case of S.K. Mastan Bee it has been held that right to family pension-it is the duty of employer to pay family pension in certain cases without being demanded and specially in a case where the widow was a illeterate lady with meagre resources who had been deprived of family pension by the Railways, the petition and claim would be maintainable despite delay.

6. Keeping in view the above judgment, the objection with regard to limitation is rejected. M.A No. 1962/2003 seeking condonation of delay is allowed. However, I would agree with



respondent's counsel that applicant has filed this O.A without approaching the authorities concerned seeking the reliefs claimed in this O.A. When the applicant had come to know that she is entitled for family pension, she should have approached the competent authority by filing a representation giving all the reasons as stated herein and in case, the respondents had rejected her claim then only there was a need to file the case in a court of law. In the instant case, since she had not given any representation to the authorities concerned, this O.A is being disposed of finally giving direction to the applicant to file a detailed representation to the appropriate authority by giving all the details about her late husband and demanding the family pension within a period of one month from the date of receipt a copy of this order. In case, she files such an representation, the competent authority shall decide the same on merits by passing a reasoned and speaking order within a period of three months thereafter.

7. With the above observation this O.A is disposed of finally at the admission stage itself with no costs.


Member- J.

/Anand/