

[OPEN COURT]

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD  
BENCH ALLAHABAD**

ALLAHABAD THIS THE 27<sup>th</sup> DAY OF MARCH, 2012

Present:

**HON'BLE MR. A. K. BHAWDWAJ, MEMBER- J**  
**HON'BLE MS. JAYATI CHANDRA, MEMBER-A**

**ORIGINAL APPLICATION NO. 1402 of 2006**

U/s 19, Administrative Tribunal Act, 1985

Smt. Kalyani Mukherjee, w/o late Bhuban Mohan Mukherjee, C/o Sri R. C. Gupta Chopan Bazar, Post Office Chopan, District Sonabhadra, Uttar Pradesh.

- 1/1. Manas Mohan Mukherjee, a/a 52 years.
- 1/2. Tapas Kumar Mukherjee, a/a 50 years.
- 1/3. Vishwageet Mohan Mukherjee, a/a 48 years.
- 1/4. Jyoti Mukherjee, a/a 46 years.

All son of Late Smt. Kalyani Mukherjee, wife of Late Bhuban Mohan Moukherjee.

All are r/o C/o Shri R. C. Gupta Chopan Bazar, P.O. Chopan, District Sonabhadra, Uttar Pradesh.

.....Applicant

**VERSUS**

1. Union of India through the General Manager, East Central Railway, Hajipur, Bihar.
2. The General Manager, East Central Railway, Hajipur, Bihar.
3. The Division Railway Manager, East Central Railway, Dhanbad.
4. The Sr. Divisional Personnel Officer, East Central Railway Dhanbad.
5. The Divisional Finance Manager, East Central Railway Dhanbad.

..... Respondents

Present for the Applicant: Sri S. Dwivedi

Present for the Respondents: Sri P. N. Rai

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### ORDER

Present Sri S. Dwivedi, Counsel for applicant and Sri P. N. Rai, Counsel for respondents.

2. Late Bhuban Mohan Mukherjee, who was employed as 'Guard' under the SM/BRKA voluntarily retired from Railway service w.e.f. 24.02.1983 (A/N) and subsequently, he passed away on 16.08.1992. Thus, the family pension was sanctioned to his widow namely Late Smt. Kalyani Mukherjee. In the year 2006 late Smt. Kalyani Mukherjee filed the present Original Application seeking issuance of direction to the respondents to fix the pension of her husband correctly. However, on 21<sup>st</sup> December, 2006 Smt. Kalyani Mukherjee also passed away, thus her, legal heirs (the present applicants) moved M.A. No.7621/2008 for their substitution as applicants in Original Application. The said M.A. was allowed in terms of the order dated 26.02.2009. The contention raised in aforementioned Original Application is that the pension of late Bhuban Mohan Mukherjee should have been fixed by giving him the benefit of 'Running Allowance'. Such contentions raised in para-5 and 6 of the Original Application reads as under:-

*"5. That under the judgment of hon'ble Supreme Court of India dated 25-7-1997 and also in accordance with Railway Board Circular dated 14-10-1997 the pension and other retiral benefits of the running staff who retired between 1-1-1973 to 4-12-1988 should be*

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*recomputed after adding 75% running allowance in the pay of the retired employee.*

*6. That since the pay and pension of husband of applicant after adding 75% running allowance was not computed therefore his pay and retiral benefits was not fixed correctly consequently he was not given the correct amount of retiral benefits and as a result of which the applicant is also being paid less amount of family pension than the amount for which she is entitled under the law."*

3. In the detailed Counter Reply filed on behalf of the respondents it is asserted that the pension of late Bhuban Mohan Mukherjee was fixed w.e.f. 25.02.1983 by giving him the benefits of 'Running Allowance' and subsequently, after his death the family pension of his widow was fixed on the basis of pension payable to late Bhuban Mohan Mukherjee after taking into account 75% 'Running Allowance'. Para 9 of the Counter Reply filed on of respondents reads as under:-

*"9. That the contents of para 4.3 of the Original Application as stated are not admitted. It is reiterated that the applicant's husband late Bhuban Mohan Mukherjee, Executive Engineer-Guard under SM/BRKA voluntarily retired from Railway Service with effect from 24.02.83(A/N) and subsequently expired on 16.08.92. At the time of voluntary retirement his pay was Rs.640/- in the pay scale of Rs.425-460(RS). Accordingly his superannuation pension/family pension was sanctioned as under:-*

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Retiring Pension: Rs.660/-+relief Rs.225/- with effect from 25.02.83.

Family Pension:- Rs.298/-+ relief upto 31.12.90 and thereafter Rs.149/-+relief from 01.01.91 and the same has been informed to the Disbursing Authority vide letter NO. DHN/ PEN /POSTAL/BMM/19-46 dated 03.05.83.

Subsequently, his pension was revised on implementation of recommendation of 4th Pay Commission to Rs.678/-+relief with effect from 01.01.86 and the same was advised to Disbursing Authority vide letter No.DHN/PEN/POSTAL/ BMM/19-46 dated 31.12.87 and thereafter in terms of Railway Board's letter no.F(E)III/2000/PNI/19 dated 21.11.2000 (RBENo.201/2000) docketed by CPO/KKK vide Serial No.165/2000, the retiring pension of the applicant's husband was revised by adding 75% running allowance instead of 55% running allowance as under:-

Last 10 moths average pay:	Rs.640/-+
R.A. (75%)	: Rs.480/- +
D.A.	: Rs.363/- +
Total	: Rs.1486/- +
1 <sup>st</sup> Rs.1000/- (50%)	: Rs.500/-
Next Rs.483/- (45%)	: <u>Rs.217.35</u>
<u>Total</u>	: <u>Rs.717.35</u>
	<u>i.e. Rs.718/-w.e.f.25.02.83</u>

Accordingly, Pension was fixed to Rs.718/- and Family Pension to Rs.320/- upto 30.12.90 and thereafter Rs.160/- till death or remarriage whichever is earlier and the same was advised to the Pension Disbursing Authority vide letter no.DHN/Pre-86-3496/POSTAL/19-46/02 dated

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25.05.02 (Annexure-CA-4 to this counter reply). By taking 75% running allowance instead of 55% running allowance for revision of pension, difference of DCRG for Rs.2112/- has been passed vide COE No.100202 dated 20.06.2002. For consolidated pension and family pension with effect from 01.01.86 the bank was requested to calculate at their end under Government of India's letter no.2/1/87-PIC-I \_\_\_\_\_ New Delhi dated 16.04.87.

Thereafter on implementation of 5th Pay Commission, family pension has been fixed and consolidated to Rs.1606/- per month with effect from 01.01.96 and the same was advised to Pension Disbursing Authority vide letter no.DHN/Pre-86-3496/POSTAL/19-46/02 dated 25.05.02 and a copy whereof was also sent to the applicant.

In view of above, it is clear that prior to 05.12.88 and thereafter pension and family pension was fixed correctly in accordance with the rule. As such the statement made in para under reply are baseless, hence are denied."

4. However, learned counsel appearing for applicants submits that the applicants have not yet been paid arrears of Pension/Family Pension payable to late Bhuban Mohan Mukherjee and his widow after adding 'Running Allowance'.
5. In the circumstances we deem it appropriate to dispose of the present Original Application with a direction to respondents to pay the applicants the arrears of enhanced Pension/Family Pension became due to late Bhuban Mohan Mukherjee/his widow till 21.12.2006, if no such benefit has already been released to late

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Bhuban Mohan Mukherjee/his widow or the present applicants. It is ordered accordingly. Needful shall be done within a period of two months. No costs.

J. Chandra.  
Member-A

Agarwal  
Member-J

/Dev/