

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXX XXXXXXXX~~
AHMEDABAD BENCH

11

O.A. No. 208 of 1987
~~XXXXX~~

DATE OF DECISION 23.08.1989.

Bai Jijibai w/o. Bijal Jawahar Petitioner

Shri G.M. Shah Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. M. Joshi Judicial Member

The Hon'ble Mr. M. M. Singh Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(12)

Bai Jijibai widow of
Bijal Jawahar,
Village - Mota,
Taluka - Palanpur,
Dist. - Banaskantha

.. Petitioner

(Advocate - Mr. G.M. Shah)

Versus

1. Union of India,
Ministry of Railway,
New Delhi.

2. General Manager, W.Rly.,
Churchgate, Bombay.

3. Divisional Railway Manager,
Western Railway, Ajmer.

.. Respondents

(Advocate - Mr. B.R. Kyada)

CORAM : Hon'ble Mr. P.M. Joshi .. Judicial Member

Hon'ble Mr. M.M. Singh .. Administrative Member

O R A L - O R D E R

O.A./208/87

23/08/1989.

Per : Hon'ble Mr. P.M. Joshi .. Judicial Member

In this application, the petitioner Bai Jijibai of village "Mota" of Palanpur Taluka has filed this application under section 19 of the Administrative Tribunals Act, 1985. She has prayed that the respondents be directed to give her pension and accounts with regard to the amount payable to her husband as a result of his premature death. It is alleged by the petitioner that even though her husband Shri Bijal Jawahar who was working as Gangmate (class IV employee) under the PWI, Palanpur sustained fatal injuries during the course of his employment on 25.3.1977, she has not been paid pensionary and other benefits payable to her being a widow of the

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2. The respondents - Railway administration have contested the application contending inter alia that the petitioner has been paid the following amounts as shown in the table mentioned below :

" (a) Provident Fund	..	Rs. 7521/- on 22.4.77
(b) SC to PF	..	Rs. 4384/- on 04.8.78
(c) Deposit linked Insurance Scheme	..	Rs. 3077/- on 22.4.77"

According to the respondents, the deceased employee Shri Bijal Jawahar did not opt for Pension System and, therefore, no family pension can be granted and nothing is now due to be paid to the petitioner.

3. When the matter came up for final hearing, we have heard Mr. G.M. Shah and Mr. B.R. Kyada, the learned counsel for the petitioner and respondents respectively. During the course of his arguments, Mr. G.M. Shah invited our attention to Annexure R-1 dated 19.8.1978 wherein the respondent authorities have admitted that they have retained Rs. 500/- in deposit for electric charges and other railway dues. According to Mr. Shah though it was indicated in the same letter that the ^{amount is going to be} ~~said~~ ~~has not been~~ released, ^{and} it has been unreasonably withheld. It was further submitted by Mr. Shah that the petitioner is ~~not~~ entitled to pensionary benefits and other compensation under the ^{Family} liberalised scheme for pension, even in the case where the deceased employee had not exercised the option for pension. In support of his submission, he has pressed in service the following instruction:

" Grant of option to the families of deceased employees to change over to pensionary benefits.

In some cases the deaths of railway servants who have retained the contributory provident fund

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benefits, results in hardship to their families because the option exercised by the late Railway servant is not considered beneficial to survivors. With a view to remove such hardships the Railway Board have decided that the families of such Railway servants, who have retained the contributory provident fund benefits and who are either killed or died as a result of injuries sustained in the due performance of their duties, may be given an opportunity to choose the benefits under the pension rules including Family Pension Scheme 1964, in lieu of provident fund benefits.

In such cases, the request for pensionary benefits should be specifically made by the nominee validly nominated by the subscriber or in the absence of nomination, by the members of the family of the deceased. If the family includes minor children, the request on their behalf can be made by their natural guardian and if there is no natural guardian, by the legal guardian.

The power to allow change to pensionary benefits in such cases, may be exercised by the pension sanctioning authorities.

The nominee or the family of the Railway servant, who dies or is killed after 7.10.70 as a result of injuries sustained in due performance of his duties may be advised to submit their request, for pensionary benefits within one month on the receipt of the advice by them from the Railway Administration.

Note:- The Rly. Board have decided that a similar option, as mentioned above may also be allowed to the families of those railway employees who die in harness because of reasons not connected with the performance of their duties. The families of such Rly. employees, may be advised to submit their request for pensionary benefits within one month of the receipt of the advice by them from the railway administration. These orders are effected from 1.9.1984 i.e. cases where the death of railway employee occurs on or after 1.9.84 will be regulated under these orders.

(R.B's No. F(E) III-84/PNI/17 dt, 16.7.85 (N.R. S.N. 8776))"

4. It is conceded by the petitioner that she did receive the amount of compensation in the sum of Rs. 21,000/- which was awarded to her by the Learned Civil Judge, (S.D.) Palanpur and Ex Officio, Commissioner for the workmen compensation at Palanpur in W.C. No. 3/78 (decided on 19.2.1980) (a copy whereof is placed on record). It is true that a sum of Rs. 500/- has been retained by the respondent authorities since 1978 and the said amount was required to be released

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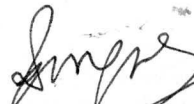
after deducting the amounts due on the account of electric charges etc. It cannot be said that the petitioner is not entitled to interest for ^{wrongful} retention for a long period. However, in view of the facts that the petitioner has also moved this Tribunal ^{nearly 10 years} after ^{the death of her husband} ~~a~~ ^{it is} ~~very long time~~, we do not consider to direct the respondents to pay interest on the said amount of Rs. 500/-. However, we direct that said amount may be ^{immediately} released, if not released, so far.

5. In the special facts and circumstances of this case, we direct that the D.R.M., Ajmer or any competent authority of the respondent - railway administration should treat this O.A./208/87 as an application for ^{claim by the petitioner} the ~~scheme~~ for pensionary benefits, if any, admissible under the existing rules and regulation. Such authority will also give due consideration to the instructions relied upon by the petitioner, which are reproduced earlier. We further direct that such authority will decide the petitioner's claim within a period of six months from the date of this order, ^{by a speaking order.}

A copy of this order be sent by the Registry ^(Divisional Regional Manager) ~~an~~ to the D.R.M., Ajmer and acknowledgement thereof be retained on the file.

With the aforesaid direction, the application stands disposed of with no order as to costs.

M. M. Singh
(M M Singh)
Administrative Member


(P M Joshi)
Judicial Member