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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 77 1987
~~Ex. No.~~

DATE OF DECISION 15/04/1988

Smt. Parsanben w/o Ambalal Petitioner
Bhulabhai Master

Shri K.K. 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.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
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*

11

Parsanben, w/o. Ambalal-
Bhulabhai Master,
2217/1, Gandhrapwad,
Targadawad, Kalupur,
Panchpatti,
Ahmedabad - 380 001.

.. Applicant

Versus

1. Union of India, through
General Manager, W.Rly.,
Church Gate, Bombay.
2. Divisional Personal Officer,
Divisional Supdt.'s Office,
Western Railway,
Establishment Branch,
Ajmer (Rajasthan)
3. Divisional Accounts Officer,
Western Railway,
Ajmer (Rajasthan).

.. Respondents.

O R A L - O R D E R

15.04.1988.

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

In this application, filed under section 19 of the Administrative Tribunals Act, 1985, on 13.2.1987, the petitioner Smt. Parsanben w/o Ambalal Bhulabhai Master (Ex-Railway employee) of Ahmedabad has claimed that she is entitled to "Family Pension" under the scheme 1964 at the increased rate introduced from 1.1.1973. She has further prayed that she is also entitled to the arrears of family pension with effect from 22.9.1977 i.e. from the date on which the contribution of two months' emoluments by pensioner was dispensed with. She has also sought direction against the respondents to grant family pension immediately to her as her husband retired from the services of Western Railway as Train Examiner on 10.6.1954 on attaining the age of superannuation and died on 2.12.1975.

12

Mr. K.K. Shah, the learned counsel for the petitioner, has stated that the husband of the petitioner was not entitled to the pension but after his retirement, he was getting an ex-gratia pension of Rs. 20/- per month after the year 1968 in terms of the scheme which came into force from 23.9.1967. It is further stated by him that the petitioner is entitled to the benefits now extended to the widow and dependants of the employees who retired or died before 1.1.1964 as per the instruction issued by the Railway Board's letter No. F(E)iii 85/PN-1/19 dated 26.7.1985. In this regard, Mr. Shah has pressed in service the instructions contained in the said letter. The material portion thereof reads as under :

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"5. Consequent upon the above judgment of the Supreme Court the President has been pleased to decide that :

(a) the benefit of Family Pension Scheme 1964 may be extended to all the eligible members of the family in accordance with the provisions of his Ministry's letter No. F(P)63PNI/40 dt. 2.1.64

(b) all the eligible persons, including dependents shall be allowed the increased pension rates as introduced from 1.1.1973.

(c) the arrears of family pension may be granted w.e.f. 22.9.1977 (the date on which contribution of two months emoluments by pensioners was despatched with) or from a subsequent date they become eligible for family pension, whichever is later. The benefit will also be available in cases where the death of the pensioner occurs hereafter;

(d) Persons who are now to be granted the benefit of family pension will not be required to contribute two months emoluments. Similarly, no demand for refund of contribution already made by pensioner will be entertained by the Government; and

(e) Life time arrears of family pension would also be payable in respect of widows eligible members of family of the deceased railway employees who were alive on 22.9.77 and who died subsequently to this date, for the period from 22.9.77 to the date of death.

(6) It has also been decided that in addition to the family pension, dearness relief on family pension sanctioned from time to time shall also be admissible.

(7) The respective Heads of Department/Office or other authorities who are competent to sanction family pension may compute the family pension including dearness relief in terms of the provisions

13

of this letter w.e.f. 22.9.1977 or from a later date from which the family pension is admissible and sanction payments.

8. The eligible members of the family would have to apply for family pension to the Head of Office from which the Railway servants retired. In case a Department has been abolished or merged with another Department, the family pension would have to be processed and sanctioned by the Office in which the present department of retired Railway servant is merged or the office which is keeping the record of the abolished office. The application for family pension should be made in the attached form. The Head of Office/Department would verify the particulars, compute the family pension including dearness relief as prescribed in the previous para, and send the application etc. to the 'Accounts Officer' which means the authority who originally issued pension Certificate/Pension Payment Order."

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Mr. B.R. Kyada, the learned counsel for the respondent has contended on the basis of the reply filed by the respondents that the ex-employee who was in receipt of ex-gratia ^{pension} and died in the year 1975, no further benefit is admissible to the family members of such employee. According to him, the family is not covered under this policy. The contention canvassed in this regard, does not merit consideration in light of the instructions, already issued by the Railway Board (quoted above). If, one reads the instruction contained in the aforesaid letter, it is quite evident that pension benefits are ~~not~~ extended by the Railway administration to the families of those Railway employees governed by the pension scheme who retired or died before 1.1.1964 and of those who were alive on 31.12.1963 but who opted out a Family Pension Scheme, 1964. Hence prima facie there are grounds to believe that the petitioner, being the widow of the ex-employee, would be entitled to such benefits as envisaged under the instructions issued by the Railway Board under letter dated 26.7.1985.

It is further borne out that in pursuance of the

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aforsaid instructions, the petitioner has registered her claim vide her application dt. 27.6.1986 Annexure C (at paper book page 15) and application in the prescribed form found at paper book page 33 are addressed to the Divisional Personnel Officer, W.Rly., Rajkot and other officers of the Railway administration at Ajmer and Ahmedabad. According to Mr. Kyada, such application has to be considered by the competent authority and in his opinion the competent authority would be Divisional Railway Manager, Rajkot. In his submission, the question whether the petitioner is entitled to claim such benefits and whether such benefits are admissible to her or not will have to be decided by the said authority. It is rather unfortunate that so far, the competent authority has not screened the application and not taken suitable decision in this regard. Hence the petitioner has been successful in establishing her case to seek direction from the Tribunal.

In this view of the matter, the application is partly allowed. The Divisional Railway Manager, W. Rly., Rajkot of the respondents - Railway administration, is directed to take a decision in respect of the application made by the petitioner on 27.6.1986 and grant all such benefits as are admissible under the instruction issued by the Railway Board's letter dt. 26.7.1985. It is further directed that such a decision should be taken by him within a period of 4 months from the date of this order.

The petitioner is directed to send a copy of her claim dt. 27.6.1986 to the Divisional Railway Manager, Rajkot in addition to one which she had already addressed earlier, within 10 days from the date of this order. A copy of this order be sent to Divisional Railway Manager, Rajkot by the Registry immediately.

Contempt Appl. No. 78/88

in

O.A./77/87

16


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

23/12/1988

In this application for contempt, it is stated by the petitioner that the D.R.M. W.Rly., Rajkot of the respondent - railway administration was required to decide her application made on 27.6.1986 within a period of 4 months from the date of the judgment dated 15.4.1988 rendered in O.A./77/87. ~~But~~ the directions issued therein are not complied with.

Mr. K.K. Shah, the learned counsel for the petitioner states that the petitioner in pursuance of the said judgment had submitted the application dated 22.4.1988 (by hand delivery) and she has not ^{still} heard anything from the D.R.M., W.Rly, Rajkot

Before taking any decision whether there is a prima-facie case of contempt or not, it is found expedient to issue notices ⁽¹⁾ to the D.R.M., Rajkot and ⁽²⁾ the respondent No. 1 i.e. General Manager, W.Rly., Bombay. Registry is directed to issue ^{urgent} notice to them to show cause why such proceeding should not be initiated. The case be posted for further direction on 24th January, 1989.


(P M Joshi)
Judicial Member

*Mogera