

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 3/1991

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DATE OF DECISION 16-09-1991

Amarba Togaji

Petitioner

Mr. R.A. Vyas

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. R.M. Vin

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh

: Administrative Member

The Hon'ble Mr. R.C. Bhatt

: Judicial 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? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

Amarba Togaji
Widow of Late Togaji Nanbha
Retd. Head Ticket Collector,
Jetaslar Junction (Dist. Rajkot)
(Advocate: Mr. R.A. Vyas)

: Applicant

Versus

Union of India
Through:

1. General Manager,
Headquarter Office of
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager,
Divisional Railway Office,
Bhavnagar Para (W.R.)

: Respondents

(Advocate: Mr. R.M. Vin)

J U D G M E N T

O.A./3/91

Date: 16-09-1991

Per: Hon'ble Mr. R.C. Bhatt : Judicial Member

1. This application under Section 19 of the Administrative Tribunals Act, 1985 is filed by the widow of one Togaji Nanbha who was serving as Head Ticket Collector at Jetalsar and who retired on 25.10.1955 due to superannuation, for declaration that respondents railway should pay monthly family pension in light of Supreme Court's judgment dated 30th April, 1985 and vide Railway Board's letter No.F(E) III 85 PN 1/19 dated 26th July, 1985 with all arrears.

2. The respondents have filed reply to the application denying the allegations made in the application.

3. Learned advocates for the parties have filed their written submissions and ^{they} have waived oral submissions. We have perused this written submissions which are on

merits of the case but it would not be necessary to go into those submissions for the following reason.

4. In order to appreciate the averments of the applicant made in this application, it is important to note that the applicant had filed previously O.A. Stamp No. 206/89 in which MA/429/89 was filed before this Tribunal for the redressal of her grievance in respect of non payment of pensionary benefits admissible to her. The said application came^{up} for hearing before the Bench of this Tribunal on 17.10.1989^{-(Annexure A/2)} in which this Tribunal observed as under:-

" Now, as per the para 8 of the said letter the head of the office department has to take a decision in respect of such application. Presumably, no orders seem to have been passed in respect of the representations made by the petitioner. In view of the fact that the petitioner is of advanced age (85 years old), we admit this application.

Moreover, while admitting the application, we dispose of the same by directing the Divisional Railway Manager, BVP (respondent No.2) to decide the petitioner's representations (dated 12.10.87) within 3 months from the date of this order by passing a speaking order. While deciding the petitioner's representation, the respondent No.2 is also required to consider the claim made by the applicant in this application by treating the same as an additional representation and after having adverted to the relevant rules and instructions governing the issue, he shall pass the speaking order and inform the petitioner accordingly. In case, the petitioner is left with any grievance, she will be at liberty to file a fresh application.

With the aforesaid direction the application stands disposed of with no order as to costs. A copy of this order be sent to the D.R.M. BVP along with one set of the application filed by the petitioner and acknowledgement thereof be retained on record."

Thereafter, again the applicant filed O.A./183/90 which was disposed of by the Bench of this Tribunal on 11.7.1990. The Bench of this Tribunal passed the following order in OA/183/90 (Annexure A/3).

" Application was posted for admission today. Learned counsel for the applicant submits that the grievance of the applicant is likely to be considered on the departmental level and

therefore this application may be permitted to be withdrawn with liberty to approach the Tribunal if adverse order is passed. Leave to withdraw the application is granted with liberty to the applicant to file application in the Tribunal if any adverse order is passed. Application is dismissed as withdrawn."

5. The applicant has alleged in para 3 of her application that though a period of four months has passed after withdrawal of application of OA/183/90 and one year has passed after the directions were given in OA Stamp No.206/89 by this Tribunal, nothing was heard from respondents and hence this application.

6. It is indeed very sorry plight that the respondents have not disposed of the representation of the applicant dated 12th October, 1987 within three months from the date of the order passed in OA Stamp No.206/89. It is very regrettable to note that the Divisional Railway Manager i.e. Respondent No.2 in O.A./206/89 has not passed the order on the petitioner's representation though this Tribunal had specifically directed him to do so. We expect the responsible officers to decide such matters like the question of the family pension to a widow according to the rules as per the direction given and within the specified period given in the order of the Tribunal. It also pains us to note that in OA/183/90 filed by the applicant subsequently, that the same grievance was repeated by the applicant. The learned advocate for the applicant who appeared in OA/183/90 had withdrawn that application on the ground that the grievance of the applicant was likely to be considered on the departmental level and therefore, he withdrew the application with liberty to approach the Tribunal if adverse order was passed and the applicant was allowed to withdraw the application made to the Tribunal if any adverse order was

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passed. We have great sympathy for the applicant but the main question is that no order was passed in this case by the respondent No. 2 though he was directed to dispose of the representation as per the direction of this Tribunal in the previous application. The application under Section 19 of the Administrative Tribunals Act, 1985 can be filed by a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal. In the instant case, the applicant in para 3 of her application stated that nothing was heard from the respondents meaning thereby that her representations are not disposed of till today. The applicant was permitted to file the application before this Tribunal if any adverse order was passed against her. The applicant instead of filing the present application should have been advised to file the Contempt Application against the respondents under the Central Administrative Tribunal Contempt of Court Rules, 1986 because of the failure of the Divisional Railway Manager, BVP to decide the petitioner's representation as per the direction of this Tribunal by order dated 17.10.1989 in OA Stamp No. 206/89 within three months from the order of this Tribunal. The respondent No. 2 in that application was directed to pass the order by a speaking order but the respondents have till today not disposed of the representations of the applicant by speaking order and the poor widow has to file this application before us. We would have certainly decided the application on merits but as there is no order passed by the authority concerned against which this application was filed under Section 19 of the Administrative Tribunals Act, 1985 the same is not maintainable. We hope that the authority concerned to whom this Bench by order dated

17.10.89 directed to dispose of the representation of the applicant by speaking order would abide by that order at the earliest and would not compel the applicant to file the application for Contempt under the Central Administrative Tribunal Contempt of Courts Rules, 1986. The applicant may if so advised take recourse under the C.A.T. Contempt of Courts Rules, 1986 against the respondents in view of the failure of the respondents to pass speaking order within the spicified period as directed in O.A.Stamp No. 206/89 decided on 17.10.89.

17. The result is that ~~as~~ the application under Section 19 of the Administrative Tribunals Act, 1985 is not maintainable as it is not the application against any order partaining to any matter within the jurisdiction of the Tribunal and the same is dismissed. No orders as to costs. The application is disposed of.

R.C. Bhatt
(R.C. Bhatt)
Judicial Member

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