

3

1-

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 450 of 1990

Date of Decision 01.10. 1991

Smt. Puti Narayanamma Applicant

Versus

Union of India & others Respondents

For the applicant

M/s.V.Prithivi Raj,
J.N.Jethi, P.K.Nayak,
R.V.Ramana, Advocates

For the respondents

M/s.L.Mohapatra, Standing
Counsel (Rly.Administn.)

C O R A M

HON'BLE SHRI N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? No
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes

JUDGMENT

4

6

N.SENGUPTA, MEMBER (J), This is an application for family pension of the widow of one P.Gopal, who was working as a Driver B-Grade, prior to his retirement from the Railway Service and he died on 5.5.1984. The applicant has averred that the said P.Gopal was not given the benefit of exercising ~~of~~ option to come over to the Pension Scheme from Contributory Provident Fund. The applicant has further stated that she also was not given any intimation about exercising the option. The applicant has sought reliance on some cases referred to in para 4 (H) of her application in support of her claim to get family pension.

2. The Railways have ofcourse not filed any written reply but on their behalf Mr.L.Mohapatra has submitted that notices had been issued to all concerned for exercise of their option to come over to the pension scheme and even though P.Gopal was in service in 1964 and continued to be in railway service till 30.6.1969 when he retired, he never exercised the option and ^{accepted} ~~shifted~~ the whole of the CPF amount including the Employers' contribution, therefore the applicant cannot be entitled to the relief that she has claimed.

3. Mr.P.K.Nayak, the learned counsel for the applicant, has very vehemently contended that a general notice is not sufficient, it must be proved by the Railway Administration that the fact that a railway

He accepts

servant was entitled to exercise option to come over the pension scheme, was ~~to be~~ specifically brought to the notice of the railway servant, and the respondents not having ^{produced} ~~perused~~ any material to show that deceased railway employee was specifically informed of his right to come over to the pension scheme, the contention ~~was~~ ~~in~~ advance on behalf of the railways cannot be accepted. Mr. Mohapatra for the railways has urged that the application is barred by time inasmuch as more than six years elapsed between the date of death of P. Gopal and presentation of the application. In reply to this, it has been contended by Mr. Nayak that the applicant is an illiterate widow who had no knowledge about the existence of the provision for exercise of option, therefore, the plea of limitation would be only a technical one and should not be allowed to prevail. The cases to which Mr. Nayak has referred to were mostly cases of persons who died prior to the ~~expiry~~ of time for exercise of option, therefore the reasons assigned in those decisions cannot be made applicable to the ~~the applicant has not devised the giving of general notice in present facts of this case.~~ ^{present} facts of this case. ^{not} In the present case, the applicant has averred anything about the amount that P. Gopal received as Contributed ^{long} Provident Fund dues. In those decisions directions were given to refund the Employees' Contribution so as to enable the family members of the deceased railway employee to get family pension, In view of the absence of the required statement

Mr. Nayak

about the quantum of Contributory Provident Fund, such a direction cannot be given, for this additional reason also the cases sought to be relied on by Mr. Nayak cannot be of much use.

4. In the meantime i.e. on 30.6.1988, the Government of India in the Ministry of Pensions have passed an order for payment of family pension, ex-gratia, to the widows and the dependant children of the deceased railway employees. In fact the applicant has been issued a pension payment order for Rs.150/- per month from 1.1.1986. It is not a case where the applicant has been denied any amount as family pension, but she is being given Rs.150/- ^{per month} ~~advanced~~ as family pension. This is a feature which would distinguish the present case from the others cited by the learned counsel for the applicant.

5. In the changed circumstances as presently obtained, it is not possible to pass an order directing the respondents to allow the applicant to come over to the family pension scheme, as introduced in 1964. The application is accordingly disposed, but there will be no order ~~of~~ ^{for} costs.



M. K. Sengupta
15/10/91
MEMBER (JUDICIAL)

Central Administrative Tribunal
Cuttack Bench, Cuttack
October, 1, 1991, / B.K. Sahoo