

6

CENTRAL ADMINISTRATIVE TRIBUNAL :CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 330 OF 1996.

Cuttack this the 2nd day of December, 1996.

Smt. Bholi .. .. .. Applicant

Vrs.  
Union of India, represented through  
Secretary, Ministry of Railways,  
Rail Bhavan, New Delhi-1 and  
others. .. .. Respondents

( FOR INSTRUCTIONS )

1. Whether it be referred to reporters or not ? *yes*
2. Whether it be circulated to all the Benches  
of the Central Administrative Tribunal or not ? *No*

*N. SAHU*  
( N. SAHU )  
MEMBER (ADMINISTRATIVE).

7

X

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.330 OF 1996.

Cuttack this the 2nd day of December, 1996.

C O R A M :

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE).

.....

Smt. Bholi, aged about 69 years,  
W/o Late Mohendra (Retired Fitter),  
South Eastern Railway, Kharagpur,  
resident of village/P.O.Khalarda,  
District-Cuttack.

... APPLICANT.

By the Advocate. : Shri K.C.Kanungo.

Versus.

1. Union of India, represented through  
Secretary, Ministry of Railways,  
Rail Bhavan, New Delhi-1.

2. General Manager, South Eastern Railway,  
Garden Reach, Calcutta-43.

3. Deputy Chief Accounts Officer (W.Pen),  
South Eastern Railway, Kharagpur,  
West Bengal.

4. The Workshop Personnel Officer,  
South Eastern Railway, Kharagpur,  
West Bengal.

... RESPONDENTS.

By the Advocate. : Shri R.C.Rath,  
Addl. Standing Counsel.

.....

O R D E R

(Pronounced in Open Court )

N. SAHU, MEMBER (ADMINISTRATIVE) : Heard Shri K.C. Kanungo, counsel for  
the applicant and Shri R.C.Rath, counsel for the respondents.

The relief prayed for in this case is for a direction to the respondents to sanction and pay the family pension with effect from 4.2.86 along with arrears of undrawn pension payable to the deceased husband of the applicant from 15.11.75 to 3.2.86. The further prayer is for payment of penal interest on the arrear pension along with compensation for sheer apathy and negligence on the part of the respondents.

At the admission stage on 13.5.96 I have recorded the following observations :

" The brief facts of this case are that the applicant is the wife of late Mahendra who worked as Fitter in the South Eastern Railway. He superannuated from Government service with effect from 31.3.1980. He received pension vide No. WA/AGP/Pen/2176/L 110-99/BK-9/P.28/1406 dated 11.7.1980. Mahendra died on 4.2.1986. He drew the last pension in the month of November, 1985 i.e. on 14.11.1985 as indicated in the Pension Payment Order. The applicant requested for Family Pension to the District Treasury Officer, Cuttack. It is averred at para-4.5 that the DTO brought the matter to the notice of Respondent No.3, Deputy Chief Accounts Officer three times in the year 1988 and also on 27.1.1996. A legal notice was issued on 22.1.1996 and 14.2.96. In response to the legal notice, Annexure-4 dated 23.2.1996 was addressed by the Deputy F.A. & C.A.O., Respondent No.3 to Respondent No.4 for according necessary sanction for payment of arrear family pension to Smt. Bholi, applicant. There was a letter also dated 15.2.1996 from Respondent No.3 to Respondent No.4. Apparently, the claim of the applicant seems to have been accepted. Unfortunately

9  
9

there has been an unconscionable delay in finalising the claim. In view of this background, this is a fit case for admission. Admit. Issue notice to the Respondents to show cause within four weeks and rejoinder, if any, within two weeks thereafter. Notice to all the respondents."

" This petition apparently appears to be one where the claim of family pension has been accepted. But there is a delay of over ten years in settling the claim. Respondent No.2 viz., General Manager, South Eastern Railway, Garden Reach, Calcutta-43, shall verify the contents of this petition and if satisfied conduct an enquiry and fix the responsibility on the defaulting officer(s) for the delay. While filing the counter affidavit, Respondent No.2 shall also identify the persons responsible for such delay in payment of family pension."

2. In the counter affidavit filed it is submitted that after receipt of this Court's notice the respondents have sanctioned family pension in favour of the applicant amounting to Rs.76,623/- and intimated the Treasury Officer, Cuttack for payment. The Workshop Personnel Officer who verified and signed the counter affidavit apologises for this inordinate delay in sanctioning family pension. While all the claims of the pension and arrears were received, the applicant's counsel states that interest on the delayed payment of pension has not so far been paid. There is no dispute that the wife of the pensioner late Mahendra is entitled to receive family pension following the date

*[Handwritten signature]*

10 10

of death of the pensioner. It is claimed by respondent No.4, the Pension Sanctioning Authority, that he did not receive any representation. It is admitted that the applicant applied for the family pension for the first time in the prescribed form CTC-38-A before the Treasury Officer, Cuttack on 3.2.88. The plea taken is that the applicant did not submit the claim before the Pension Sanctioning Authority after the death of her husband. It was only on receipt of the legal notice dated 14.2.96 addressed to the General Manager, S.E.Railway, Garden Reach, Calcutta, office of respondent No.4 took immediate steps for searching the pension case of the deceased railway employee. It is stated that the concerned Dealing Assistant having retired, the letter dated 28.8.88 as referred to in the Deputy F.A. & C.A.O., Kharagpur's letter could not be traced out. It is admitted that on receipt of this Court's order dated 13.5.96 on 27.5.96 by respondent No.4, that formalities of filling up forms were complied and the family pension due to the applicant from 5.2.86 to 31.5.96 to the extent of Rs.76,623/- was made ready for payment.

3. Learned counsel for the applicant states that respondent No.4 cannot claim innocence or avoid his responsibility on the ground that he was not directly addressed. He points out that the Annexure-1 is the Pension Payment Order which was duly signed by the Deputy Chief Accounts Officer (W.S.) S.E.Railway, Kharagpur. By Annexure-2 dated 20.2.88 the District Treasury Officer informed the Deputy Chief Accounts Officer, respondent No.3 about the



death of the pensioner on 4.2.86. He enclosed a copy of the Death Certificate. He informed that Smt.Bholi, applied for sanction of family pension in her favour in the prescribed application form CTC-38-A before him on 8.2.88 two years after the death of the applicant's husband. He requested for sanction of pension by the appropriate pension sanctioning authority as per SR 318. All the papers were sent by the District Treasury Officer to respondent No.3. There was also a reminder by the District Treasury Officer to respondent No.3 on 22.12.88. Respondent No.3 wrote a letter by Annexure-4 to the respondent No.4 for taking early action in connection with the case of the applicant and copy of the advocate's notice was forwarded to him. The contents of the letter (Annexure-4) are extracted below :

" South Eastern Railway.

No.WA/Pen/KGP (W)/747 dt. Kharagpur 29.2.96.

WPO/KGP.

Reg: Sanction of family pension in favour of Smt.Bholi, w/o Mohendra Ex-Fitter, T/No.-38102, Dt. of retirement- 31.03.80.

Ref: 1) WA/KGP/Pen/2176/TR/360/3975 dated 26/28.8.88.  
2) This office letter No.WA/KGP/W/Pen/ 496/ 15.2.96.

In response to the above case, letter was issued vide above numbers to accord necessary sanction of arrears family pension to Smt.Bholi.

An Advocate's notice received in connection with the case which is forwarded (X' rox copy) for ready reference.

Necessary early action is awaited from your end.

Enc: As above.

DY.F.A. & C.A.C.(W)/KGP."

*[Signature]* This shows that respondent No.3 had made an earlier reference

dated 28.8.88 to W.P.O./KGP. and that all the concerned authorities were aware of the application of the applicant and atleast for a period of 8 years they did not examine her request or inform her of their decision. There is absolutely no justification for the delay. It will be appropriate to take the date as 19.2.88 as the starting point when the District Treasury Officer, Cuttack informed the Deputy Chief Accounts Officer about the death of the deceased. I allow thereafter a period of six months for processing the claim, from 19.8.88 or for the purpose of convenience of calculation from 1.9.88, the delay in disposing of the claim has not been properly explained. I accordingly direct the respondents to compute, quantify and pay interest @ 15% per annum on the amount of pension and family pension that was due from month to month and remit the same to the applicant within a period of five months from the date of receipt of a copy of this order. The interest shall be calculated till 28.5.1996.

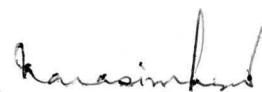
4. Learned counsel for the applicant has brought to my notice a decision of the Patna Bench of the Tribunal in Radhika Devi v. Union of India and another (1996)33 ATC 788. That decision relied on the Supreme Court decision in the case of State of Kerala v. M. Padmanabhan Nair (AIR 1985 SC 356). That was a case of delay in release of pensionary benefits and a direction was given to the General Manager, North Eastern Railway to take this as a fit case for enquiry to ascertain whether there was any culpable negligence of any employee including the DRM and in accordance with the decision of the Supreme Court in the case of State of Kerala v. M. Padmanabhan Nair

13

13

(supra) and consider the appropriateness of recovering penal interest from the employees accused of culpable negligence. This is also an appropriate case. I would, therefore, direct the General Manager, South Eastern Railway, Garden Reach, Calcutta to conduct an inquiry and consider whether this delay has occurred on account of any culpable negligence on the part of any employee and if he finds that on the existing material there was such culpable negligence, he shall consider the appropriateness of making a recovery of such penal interest from the employee concerned.

The Original Application is accordingly disposed of. No costs.

  
( N. SAHU )  
MEMBER (ADMINISTRATIVE).

DJ/