

Order dated 8.1.2003

Heard Shri R.K.Samantray, Advocate for the Applicant and Shri C.R.Mishra, Advocate for the Respondents/Railways.

Claiming exgratia benefits, the Applicant (widow of an ex railway employee) has filed this Original Application under Section 19 of the A.T.Act, 1985. However, in the counter, the said claim has been denied. Taking a clue from the averments made in the counter, during pendency of this O.A., the Applicant has made a representation on 5.11.2002 to the Respondents/Railways claiming family pension.

It appears that applicant's husband was a temporary hand in the Railways and therefore, he was a temporary railway servant and as per Rule-75(2) of the Railway Services (Pension) Rules, 1993 (the relevant portion of which is extracted hereunder) the Applicant is entitled to family pension:

"~~75~~(2) without prejudice to the provisions contained in sub-rule(3), where a railway servant dies -

- (a) after completion of one year of continuous service, or
- (b) before completion of one year of continuous service provided the deceased railway servant concerned immediately prior to his appointment to the service or post was examined by the appropriate medical authority and declared fit by that authority for railway service;
- (c) after retirement from service and was on the date of death in receipt of pension, or compassionate allowance; referred to in Chapter V, other than the pension referred to in rule 53;

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the family of the deceased shall be entitled to a family pension 1964 (hereinafter in this rule referred to as family pension)..."

This apart, Rule 18 of the said Rules deals with pensionary/terminal benefits to temporary railway servants. The Note below Rule-75(1) also throws sufficient light to show that families of persons, who breathed their last are also entitled to family pension benefits, retrospectively.

Now that the Applicant has represented on 5.11.2002 claiming family pension and since there are certain provisions available under the provisions of Rules 1993(Supra), the Railways/Respondents should give due consideration to the aforesaid claim (with regard to family pension of the Applicant) within a period of three months from the date of receipt of copies of this order and grant necessary pensionary benefits in favour of the Applicant.

The Respondents are hereby directed accordingly.

The Applicant, if so advised, may file a fresh representation (along with connected papers) for grant of family pension and, in the event such a representation is filed, the Respondents/Railways are directed to dispose of the same in granting necessary relief in favour of the Applicant within the period as indicated above.

With the aforesated terms, this O.A. is disposed of, leaving the parties to bear their own costs.

Send copies of this order to the Respondents and free copies of this order be also made available to the counsels of both sides.

*Y. S. Chait
07.01.2003*
MEMBER (JUDICIAL)

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