

O.A. No. 78/07

ORDER DATED 14th May, 2008

Coram:

Hon'ble Mr. Justice K. Thankappan, Member (J)

Heard Mr. R.K. Samatsinghar, Ld. Counsel for the applicant and Mr. R.N. Pal, Ld. Counsel for the Respondents.

2. The applicant is the unmarried daughter of a deceased employee who was working as Boat Man under BRI(N) KUR of Khurda Road Division which comes under the territorial jurisdiction of East Coast Railway. The father of the applicant after superannuation died on 12.06.1996. As the father of the applicant was retired from service on 31.07.1992 he was allowed superannuation pension w.e.f. 01.08.1992 vide P.P.O. No.Pen/SE-KUR/1992/B-535/817 and was drawing the same through Andhra Bank, Khurda Road, Jatni Bearing S.B. A/C. No.5655. At the time of the death of the deceased employee the applicant was a minor as her date of birth was recorded as 18.11.1987 (Annexure-A/6). The mother of the applicant named G. Rajasree also died on 05.01.1993 (Annexure-A/2). Hence the applicant alone is left as the legal heir and dependent of the deceased employee G. Erriah. After the death of the father though she was a minor, the applicant had filed an application for getting family pension through a guardian named Smt. G. Saraswati who was claimed as the guardian of the minor without any legal documents/evidence.

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Hence the authorities had directed the applicant as per Letter No.Sett/Eng/NR/746/3 dated 20.12.1996 (Annexure-A/5) to produce a Non-Natural Guardianship Certificate from the competent Court of Law enabling the applicant to receive the family pension. Thereafter the applicant remained silent till 31.03.2006. After attaining majority on 31.03.2006 the applicant submitted an application before the Divisional Personnel Officer(P), East Coast Railway, Khurda Road (Annexure-A/7) for sanctioning of current and arrear family pension in her favour. However, this application was also accompanied by an affidavit signed by the applicant in which her date of birth was shown as 14.07.89. In the School Leaving Certificate produced by the applicant it is recorded her date of birth is 18.11.1987. This application has not been attended by the authorities, which necessitated the applicant to file the O.A before this Tribunal.

3. This Tribunal heard Mr. R.K. Samatsinghar, Ld. Counsel for the applicant and Mr. R.N. Pal, Ld. Counsel for the Respondents. As per the oral instruction received by the Counsel for the Respondents it is submitted that since the applicant has not given the necessary documents to show her attainment of majority, her date of birth, the non-natural guardianship certificate, the authorities have not considered the same. However, Counsel for the applicant submits that since the applicant attained majority now, the non-natural guardianship certificate is not necessary. Now, the Counsel

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submits that she will furnish all other certificates viz. the certificate showing date of birth as per school leaving certificate, non-marriage certificate, legal heir certificate and any other particulars which the Respondents wanted to prove the claim.

4. It is the fact admitted by the Respondents that the applicant is the daughter of the deceased employee. If so, it is only proper for the Respondents to consider Annexure-A/7 application and pass appropriate orders within a reasonable time. If the applicant wants to furnish any other documents to prove her age, her date of birth, her attainment of majority etc., shall furnish once again along with a copy of Annexure-7 to the Respondent No.3 within one month from the receipt of the copy of this order. As this Tribunal has already found that the applicant has already attained majority, it is needless to say to submit any majority certificate showing the date of birth. The authority, specifically the 3rd Respondent shall pass appropriate orders within 03 months from the date of receipt of the documents by the applicant and allowing the entire arrears of the family pension to the applicant from the date of the death of the deceased employee. Thus this O.A stands allowed. No order as to cost.

5. Copy of this order be given to Mr. R.K. Samatsinghar, Ld. Counsel for the applicant and Mr. R.N. Pal, Ld. Counsel for the Respondents.

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MEMBER (J)