

O.A.No.155 of 2008

Mani Devi Applicant
Vs.
Union of India & Ors. Respondents

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Order dated - 29-04-2008

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THE HON'BLE MR. JUSTICE K.THANKAPPAN, MEMBER (JUDL.)

Applicant (Mani Devi) approached this Tribunal second time. On first occasion, she approached this Tribunal in OA No. 619 of 2006. By order dated 30.08.2006, the said Original Application was disposed of, at the admission stage, by directing the Respondent No.2 to consider the representation of Applicant and pass appropriate orders thereon within a specified period.

2. The Applicant approached this Tribunal to have a direction to the Respondents to allow the service benefits of her deceased Son, Bansidhar Nayak who died in harness on 24.10.1984, while working in the Railways as Fireman under Loco, Bhadrak, S.E. Railway. Applicant claims that her son W was a regular employee of the Railway. He entered to the

service of Railway on 26.05.1953 and was allotted PF No. 232605. After his death, she is the only legal heir of her son. It is the case of the Applicant that her son was unmarried and he worked in the post of FM II till 24.10.1984. Hence the Applicant claims that the authorities even after lapse of more than 24 years have not released any service benefits of her son in spite of several representations and finally, she approached this Tribunal by filing the earlier OA as stated above. But in spite of direction of this Tribunal, the Applicant has not been given any benefits of her son. Hence, she approached this Tribunal in the present Original Application praying to quash the order dated 22.11.2005 under Annexure-A/5 and to give a direction to the Respondents to disburse the Applicant family pension from the date of death of her son Banshidhar Nayak with all other service benefits such as Provident Fund amount, gratuity, leave encashment Insurance etc.

3. To substantiate her claim, the Applicant relies on sub Rules 1 & 2 of Rule 75 of the Railway Service (Pension) Rules, 1993. As per the said Rules, a Railway Servant entering service in a pensionable establishment on or after the 1st

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January, 1964 is entitled to retirement benefits and if the employee is died in harness or otherwise, the legal heirs of such employee is entitled for family pension.

4. It is seen from the letter under Annexure-A/5 that the claims of Applicant was negative by the Respondents on the ground that deceased Bansidhar Nayak/son of Applicant, while working as FM II under Loco/BHC had submitted an application dated 12.04.1962 tendering his resignation from Railway service on his own volition which was duly accepted by the competent authority on 13.04.1962 with forfeiture of one month's salary in lieu of one month notice. Further it is stated by the Respondents that the son of Applicant has already been paid SCPF amount and other settlement benefits and thereafter he expired on 24.10.1984.

5. To repudiate the above stand of the Respondents, the Applicant has placed no material or evidence to hold otherwise. After going through the records produced before this Tribunal and on hearing the arguments of the Counsel appearing for both sides, this Tribunal is of the view that the stand taken in the order under Annexure-A/5 cannot be rejected

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as there is no material to hold that the claim of Applicant is correct.

6. Apart from this, it is borne from record that the son of the Applicant died, even according to Applicant, on 24.10.1984 and the Applicant approached the authority on 20.01.2004 (Annexure-A/3) i.e. after a lapse of more than 20 years. The applicant has already approached this Tribunal and had received a direction to consider the claim of the in OA No. 619 of 2006. Even after receipt of that order, the Applicant is not in a position to produce any material to show that the stands taken by the Respondents are incorrect.

7. In the above circumstances, this Tribunal is of the view that this Original Application lacks any merit and is liable to be dismissed. Accordingly, this OA stands dismissed by leaving the parties to bear their own costs.

for appn
(JUSTICE K.THANKAPPAN)
MEMBER (JUDICIAL)

KNM/PS.