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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O. A. No. 777 of 2013

Cuttack the 27th day of November, , 2013

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)

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Chandrakala Samal, aged about 49 years, D/o. Late Sridhar Samal,
C/o.Jogendra Jena, At-Hata Bazar, Po-Jatni, Dist. Khurda, Odisha.

...Applicant

(Advocates: M/s. K.P.Mishra, T.P.Tripathy, L.P.Dwivedy)

VERSUS

Union of India Represented through –

1. The General Manager, East Coast Railway, Chandrasekharpur,
Bhubaneswar, Dist. Khurda.
2. The Senior Divisional Personnel Officer, East Coast Railway, At/Po.
Jatni, Dist. Khurda, PIN-752 050.
3. Divisional Personnel Officer, East Coast Railway, Khurda Road,
Khurda, Po.Jatni, Dist. Khurda.

.....Respondents

(Advocate: Mr.T.Rath)

ORDER

(Oral)

A.K.PATNAIK, MEMBER (J):

The case of the Applicant, in nut shell, is that she is the unmarried daughter of ~~late D/o~~ ^{late} Late Sridhar Samal who while working in the Railway (under IOW, Water Works, Khurda) as Painter Grade I retired from service on reaching the age of superannuation on 09.02.1995. After his death her mother was getting the family pension but mother also expired on

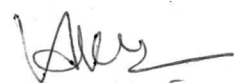
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04.09.2010. After the death of the mother, the applicant submitted representation before the Respondent No.3 praying for sanction/grant of family pension as she is unmarried and was dependent on her father and mother. Further case of the applicant is that in pursuance of the representation, the Respondents had sought certain information which was duly complied with but despite of such compliance and despite the fact that she is entitled to family pension it was intimated vide reply dated 12.9.2013 by the Respondents that the case of the applicant is under process. Being aggrieved by such delay in sanctioning family pension in her favour, she has approached this Tribunal in the instant OA with prayer to direct the Respondents to release the family pension in her father with effect from the date of death of her mother within a stipulated period to be fixed by this Tribunal.


2. Copy of this OA has been served on Mr.T.Rath, Learned Standing Counsel for the Railway in advance who is also present in Court today. Heard Mr.L.P.Dwivedy, Learned Counsel for the Applicant and Mr.T.Rath, Learned Standing Counsel appearing for the Railway-Respondent and perused the records. By bringing the facts to the notice of this Tribunal Mr. Dwivedy strongly argued that this is a case of intentional and deliberate harassment to the applicant in the matter of granting the family pension which she is entitled to under rules and, therefore, the relief sought in this OA needs to be allowed with costs. On the other hand




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Mr.Rath, submitted that there is no cause of action for the applicant ¹⁰ ~~at~~  approach when the matter is under consideration as intimated to her.

Therefore this OA being premature, is liable to be dismissed.

3. It has been held in several judgments, that pension is not a bounty or matter of grace, but in fact a deferred portion of salary earned, or payment of compensation for service rendered (Ref D.S. Nakara v. Union of India and Indian Ex-Services League v. Union of India 1992 (1) LLJ 765 [SC]). Pension is not a bounty nor will a matter of grace depending upon the sweet will of the employer. It is not an exgratia payment, but a payment for past service rendered ⁸⁷ ~~in~~  the instant case by the father of the applicant. It is a social welfare measure rendering socio-economic justice. Pension is therefore deferred wages. Pension is their statutory, inalienable and legally enforceable right and it had been earned by the sweat of their brow. A pension scheme consistent with available resources should therefore provide pension so that the pensioner should be able to live (i) free from want, with decency, independence and self-respect and (ii) at a standard living.

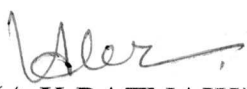
4. It is the specific case of the applicant that as an unmarried daughter after the death of her father and mother she is entitled to family pension but the same has not been sanctioned/paid since 2010. The Government of India issued instructions time and again for paying utmost importance to the case of pensioner but here is a case where due to callousness, the applicant has been made to approach this Tribunal for



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sanction of family pension which is certainly depreciable. In the aforesaid circumstances, this Original Application is disposed of at this admission stage with direction to the Respondent No.3 (Divisional Personnel Officer, East Coast Railway, Khurda Road, Khurda) to pay personal attention to the grievance of the applicant and if she is otherwise held to be entitled to family pension, as per rules/Railway Board Instruction the same may be sanctioned and paid to her from the date she is entitled to such benefit within a period of thirty days from the date of receipt of copy of this order. If for any reason she is not entitled to family pension reason thereof should be communicated within the aforesaid period. There shall be no order as to costs.

5. Copy of this order be sent to Respondent No.3 by speed post for compliance.


(A.K.PATNAIK)
Member (Judiciali)