

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.D.A.573 of 1996

Present : Hon'ble Dr.B.C.Sarma, Administrative Member.

RAJESH MANDIYA & ORS.

Vs.

UNION OF INDIA & ORS.

For the applicants : Mr.B.C.Sinha, counsel.  
Mr.P.C.Gas, counsel.

For the respondents: Mr.S.Choudhury, counsel.

Heard on : 20.2.1997

Judgment on : 20.2.1997

J U D G M E N T

This application has been filed jointly by three applicants who are the sons of one Nandoo who was Ex-Fitter under the respondents. The said Railway employee expired on 10.3.1984. The family of the late employee consisted of three minor children, one unmarried daughter and his wife, but the wife expired before his death. After the expiry of Nandoo, his eldest son, Mukesh, whose date of birth is 30.3.1967 <sup>got family pension</sup> from the <sup>respondents</sup> Railway department upto the age of 21 years i.e. till 1988. On attainment of majority by Mukesh, the second son of the late employee, Rajesh, whose date of birth is 3.4.1968, got the family pension from the Railway-respondents upto the age of 21 years i.e. till 1989, but the amount of pension from 30.3.1988 to 2.4.1989 has not been paid by the Railway-respondents. The applicants further contend that Dinesh, the youngest son of the late employee whose date of birth is 10.4.1972, got family

pension upto the age of 21 years, but the family pension from 30.3.1988 to 2.4.1989 was neither paid to Rajesh nor to Dinesh by the concerned Railway-respondents. Being aggrieved thereby, the instant application has been filed with a prayer that a direction be issued to the respondents to pay the applicants the arrear family pension, as mentioned in paragraph 8 of the original application.

2. The case has been resisted by the respondents by filing a reply. The stand taken by the respondents has been <sup>that</sup> after the expiry of the ex-employee and his wife, the benefit of family pension was given to the eldest son, Mukesh, upto the date when he attained the age of 21 years. After that, the benefit of family pension was extended to the next eligible son i.e. Dinesh the third son of Namdeo, till he attained the age of 21 years i.e. upto 7.4.1989. The benefit of family pension was allowed to be given to Dinesh, the third son of Namdeo, instead of Rajesh, the second son, because Rajesh had submitted a representation on 11.3.1989 that he is working in a private company and as such, the family pension may be drawn in favour of his younger brother, Dinesh. Rajesh, however, submitted an application on 12.7.1991 for restoration of family pension from 30.3.1988 to 2.4.1989, but the same was not accepted in terms of item no.3 of Railway Board's letter dated 28.9.1987, circulated vide CPQ/GRC's Establishment Sl.No.66/89 dated 15.3.1989. The respondents contend that the benefit of family pension in favour of Dinesh upto the age of 25 years may be reviewed on his appeal to the administration for extension.

3. On the date of hearing, Mr.S.Choudhury, Id.counsel for the respondents, produced before me a photo-copy of the Railway Board's letter No.F(E)III/85/PN-1/19 dated 28.2.1989/3.3.1989, which I have perused. It appears from the copy of the said letter that although as per the Pension Rules of 1950, family pension was admissible to a male child of the deceased employee upto the



age of 18 years, but the benefit has been <sup>subsequently</sup> extended upto 21 years.

Para 3 of the said circular runs as follows :-

"Cases may be regulated in accordance with the above mentioned guidelines. In regulating the cases, no readjustment need be made where the family pension entitlement has already passed on to the next eligible son or daughter. For example, if the payment of family pension to a son 'A' had been stopped on his attaining the age of 18 years, say from 1.1.1979 and thereafter family pension has already been paid to the next eligible son 'B' / unmarried daughter 'C', it will not be withdrawn from 'B' or 'C' for being restored to 'A'."

It appears that the claim of the applicants regarding drawal of the aforesaid arrears of family pension is based on restoration of the claim of the second son who is Rajesh.

Obviously, therefore, such a claim is barred as per the provisions contained in para 3 of the circular dated 28.9.1989. I further hold that non-payment of family pension in case of the first and second son of ex-employee i.e. applicant nos. 1 and 3 relates back to the period sometime in 1988 or so and I have no hesitation to hold that their prayers are barred by limitation.

4. As regards the claim of the third son, I find that the respondents are willing to consider the case for extension of the family pension upto 25 years if an appeal is made in this regard. My attention is invited to a number of representations which were filed, but those representations were filed by the second son, Rajesh.

5. I therefore, direct the respondents to treat the instant application as a fresh representation in respect of the third son, Dinesh, applicant no. 2 in the O.A., and accordingly direct them to dispose of the said representation within a period of three months from the date of communication of this order. If after such consideration the third son, Dinesh, is found



eligible to get family pension, he shall be given family pension to the date upto which he is eligible and within the same period, the respondents shall also disburse all the arrears amounts of family pension.

6. No order is passed as to costs.

7. Copy of the Railway Board letter dated 28.2.1989, produced by Mr. Chowdhury, be kept on record, after <sup>duly</sup> being attested by him.



(B.C. Sarma)  
Administrative Member