

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 20.9.1999

O.A. No. 80/1998

Smt. Sumitra w/o. late Shri Girish Kumar Gupta aged about 40 years, Head Train Examiner, Sabarmati, Western Railway, resident of 5, Pareek Bldg., K.E.M. Road, Bikaner - 334 001.

Applicant.

versus

1. General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway manager, Western Railway, Vadodara - 390 002.
3. Divisional Personnel Officer, Western Railway, Vadodara - 390 002.
4. Divisional Accounts Officer, Western Railway, Vadodara - 390 002..

... Respondents.

Mr. Y.K. Sharma, Counsel for the applicant.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

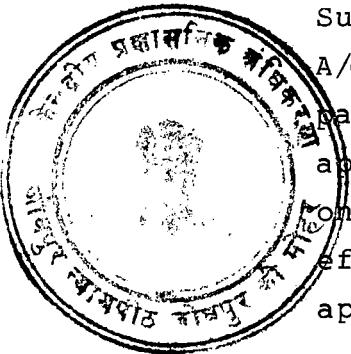
(Per Hon'ble Mr. Gopal Singh)

Applicant, Smt. Sumitra, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to pay her the amount of Provident Fund (PF, for short) with interest, of her husband (deceased).

Gopal Singh

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2. Applicant's case is that her husband, Girish Kumar Gupta was employed on Western Railway and was last posted as Head Train Examiner at Sabarmati Station of Vadodara Division, Western Railway. The husband of the applicant was removed from service with effect from 20.5.91. Aggrieved by the above punishment, Girish Kumar Gupta, approached the Ahmedabad Bench of the Tribunal through O.A. No. 60/1993. However, during the pendency of the case in the Tribunal, he expired on 3.12.96. The applicant immediately informed the respondent-department that she has vacated the Railway quarter allotted to her husband vide her letter at Annexure A/3. Subsequently, vide her letter dated 20.10.97 (Annexure A/2), she had requested the authority to arrange payment of PF amount due to her husband. The applicant had also sent a notice for demand of justice on 3.12.97 vide Annexure A/4. Having failed in her efforts to get the PF balance, the applicant has approached this Tribunal.



3. Notices were issued to the respondents and they have filed their reply. It has been averred on behalf of the respondents that the payment of PF dues to the widow of the deceased Railway servant could not be made for the following reasons:-

- (i) That the husband of the applicant was in unauthorised occupation of the Government accommodation and the penal/damage rent was to be recovered from him;
- (ii) Applicant did not submit the requisite forms for getting the amount of P.F.;
- (iii) Respondents were not knowing the address of the applicant and, therefore, the relevant papers could not be sent to her;
- (iv) It has also been argued on behalf of the respondents that the applicant is not entitled to any interest on the amount of P.F. on account of her own laches.

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4. We have heard the learned counsel for the parties and perused the records of the case.

5. In regard to non-payment of PF dues because of unauthorised occupation of the Government accommodation by the husband of the applicant, it is pointed out that the Government is not empowered to deduct any amount due to them by the subscriber from his accumulations in the General PF at the time of retirement, or from undisbursed General PF accumulations payable to a subscriber's nominees in the event of subscriber's death in service or after retirement, even though the consent of the subscriber or nominee may have been obtained, in terms of Government of India's decision No.1 under Rule 31 of GPF Rules. As such, the argument adduced by the respondents that the PF dues could not be paid to the widow of the deceased Railway servant because her/husband was liable to pay penal/damage rent for the unauthorised occupation of the Government accommodation is not tenable. It has already been mentioned that the deceased Railway servant had filed an application with the Ahmedabad Bench of the Tribunal against the orders of his removal from service and it can safely be presumed that he had all hopes that he would be reinstated in service. Unfortunately, he died on 3.12.96 during the pendency of the said OA. Thus, there was no occasion for the deceased Railway employee to fill up the necessary forms for withdrawal of his General PF dues. Immediately after the death of her husband, the applicant informed the respondent-department of the same and also vacated the quarter allotted to her husband on 17.1.97 and she had also requested the authorities for the settlement of PF dues of her deceased husband. It was expected of the respondent-department to get ~~necessary~~ necessary forms filled up by the applicant on the death of the Railway servant. Thus, the contention of the respondents that the applicant did not submit the necessary forms for the purpose is not tenable.

Leopold J.



6. Immediately after the death of her husband, the applicant had written letters to the respondent-department vide Annexure A/3 indicating therein her full address. Therefore, it cannot be asserted by the respondents that the address of the applicant was not available with them. As has been discussed above, immediately after the death of her husband, the applicant had taken up the matter with the respondent-department about the settlement of PF dues of her husband. It has already been pointed out that the deceased husband of the applicant had been fighting the case of his removal in the Ahmedabad Bench of the Tribunal and therefore, he did not consider it necessary at that time to fill up the necessary forms. Thus, there does not appear any delay on the part of the applicant to request the authorities for settlement of PF dues. As for the filling up of necessary forms, learned counsel for the respondents could not produce before us any communication asking the applicant to fill up these forms. We thus do not find any delay on the part of the applicant in claiming PF dues of her deceased husband. The husband of the applicant died on 3.12.96 and the Government quarter was vacated on 17.1.97. Thus, the respondent-department was aware of both these events. It was expected of them to initiate action for settlement of PF dues of the deceased Railway servant. The learned counsel for the applicant has stated at the Bar that it was only after filing of the present OA on 17.3.98 that the respondent-department sent the Welfare Inspector to applicant's residence for getting the necessary forms filled up. The department has taken about 15 months in initiating any action in regard to settlement of PF dues of the deceased Railway servant. Moreover, the accumulations in the PF of the deceased Railway servant have remained in the Government account for all these years and we are of the view that the widow of the deceased Railway servant should not be made to suffer the financial loss on account of non-payment of interest on the accumulations in the PF of the deceased Railway servant.

*Carapali*



In the light of the above discussion, we are of the view that the application has merit and deserves to be allowed.

The O.A. is accordingly allowed with a direction to the respondents that the accumulations in the PF of the deceased Railway servant (Girish Kumar Gupta) alongwith upto date interest be paid to the applicant within three months from the date of receipt of a copy of this order.

9. Parties are left to bear their own costs.

Gopal Singh

( GOPAL SINGH )  
Adm. Member

*28/9/11*

( A.K. MISRA )  
Judl. Member

cvr.

Lib. | 23/9/88.  
Horrible member.

Copy Received  
O. Nakai

Charged

Rec'd C. S.  
23/9/88  
24/9

Part II and III destroyed  
in my presence on 17-7-88  
under supervision of  
Section Officer as per  
order dated 16/5/2006

Section Officer (Record)