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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

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Original Application No. 222/2007

Date of order: 15.07.2008

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

1. Neeraj Yadav s/o Late Shri Rajendra Singh Yadav, aged about 19 years.
2. Miss Poonam Yadav D/o Late Shri Rajendra Singh Yadav, aged about 15 years, through Guardian - Applicant No. 1.
3. Miss. Neetu Yadav D/o Late Shri Rajendra Singh Yadav, aged about 13 years, through Guardian - Applicant No. 1.

All the applicants are residents of 74, Vijay Nagar, Mabhuban Basni, Jodhpur and Wards of late Sh. Rajendra Singh Yadav, Ex. Assistant Station Master, NWR, Raika Bagh, Jodhpur.

...Applicants.

Mr. S.K. Malik, counsel for applicants.

VERSUS

1. Union of India, through the General Manager, North Western Railway, Jaipur.
2. Divisional Railway Manager, North Western Railway, Jodhpur Division, Jodhpur.
3. Sr. Divisional Personnel Officer (N.W.R.) Jodhpur Division, Jodhpur.

...Respondents.

Mr. Salil Trivedi, counsel for respondents.

ORDER

Applicants, who are legal representatives of deceased Shri Rajendra Singh Yadav, has filed this Original Application No. 222/2007 thereby praying for the following reliefs: -

"(a) by an appropriate writ, order or direction the respondents may be directed to release family pension and other terminal benefits like gratuity, PF, Leave Encashment, G.I.S. and payment for Nov. 2005 along with interest @ 18% p.a.



(b) Exemplary cost be imposed on the respondents for causing undue harassment.

(c) any other relief which is found just and proper be passed in favour of the applicants."

2. Briefly stated facts of the case are that the father of the applicants died on 30.11.2005. In fact that was not a natural death but he was murdered. On that basis a case under Section 302 of I.P.C. was registered. The wife of the deceased was held guilty of the charges and as such she was sentenced by the competent court by imposing sentence of life imprisonment and as such the retiral benefits, which was to be paid to the wife of the deceased namely Smt.Vimla being a nominee under the rules, could not be disbursed. Subsequently, the matter was taken up by the wife of the deceased with the department vide her application dated 18.10.2007 for releasing the retiral benefits in the name of his son Neeraj Yadav, applicant No. 1. The matter was processed by the department. Since claim was not settled, applicants filed this O.A. for aforesaid reliefs.

3. Notice of this O.A. was given to the respondents. Facts as stated above are not disputed by the respondents. In the reply, respondents has stated that P.P.O. in favour of the applicant No. 1 has already been issued on 04.04.2008 and the family pension was granted w.e.f. 01.12.2005 to 13.04.2007 @ Rs. 3975/- as he was given appointment on compassionate grounds on 13.04.2007. Copy of the P.P.O. dated 04.04.2008 has been placed on record as Annexure R/1. Regarding release of the other retiral benefits i.e.



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D.C.R.G., G.I.S., Leave Salary and P.F., the respondents in para 5 of the reply-affidavit has specifically stated the amount which is admissible to the claimants. It is further stated that the deceased Shri Rajendra Singh Yadav has taken a loan from Railway Employees Cooperative Society Ltd., Jodhpur and total amount outstanding which was to be recovered from the deceased comes to Rs. 1,37,437/- It is stated that deceased Shri Rajendra Singh Yadav has given his consent to adjust the loan amount from the amount of gratuity, leave encashment, commutation, therefore, the aforesaid amount was deducted from the amount of D.C.R.G. and leave salary and after deducting the same three cheques namely for G.I.S. Rs. 34,714/- vide cheque No. 681952 dated 30.11.2007, for leave salary Rs. 61,501/- vide cheque No. 687572 dated 10.04.2008 and for P.F. Rs. 1,30,811/- vide cheque No. 687575 dated 10.04.2008 were issued in favour of Neeraj Yadav. It is further stated in the aforesaid para of the reply that P.P.O. in favour of the minor applicant No. 2 Ms. Poonam Yadav could not be issued for want of guardian certificate as the applicant No. 1 who has been appointed on compassionate ground is not entitled to family pension after his employment. According to the respondents, the P.P.O. in favour of the applicant No. 2 shall be issued as soon as the guardian certificate is produced by the applicants.

4. I have heard the learned counsel for the parties and gone through the material placed on record.



5. Learned counsel for the applicants submits that vide P.P.O. dated 04.04.2008, the family pension w.e.f. 01.12.2005 to 13.04.2007 @ Rs. 3975/- and D.A w.e.f. 01.12.2005 has been sanctioned in favour of the applicant No. 1 but the same has not been credited in his account/paid to the applicant No. 1, as such appropriate direction may be given to the respondents to do the needful. Learned counsel for the applicants has further drawn my attention to the stand taken by the respondents in para 5 of the reply and argued that as per own showing of the respondents, the total retiral benefits which was due to the applicant comes to Rs. 2,03,938/- whereas a sum of Rs. 1,37,437/- was to be adjusted towards the loan taken by the deceased. According to the learned counsel for the applicants, after deducting the aforesaid amount and three cheques issued by the respondents, a sum of Rs. 5000/- is still to be paid to the applicants. This fact is not disputed by the learned counsel for the respondents. Learned counsel for the respondents submits that the said amount shall be disbursed to the applicants after procuring the commercial clearance from the appropriate authority.

6. Regarding issuance of revised P.P.O. to the applicant No. 2, learned counsel for the applicants has got no grievance at this stage as the revised P.P.O. could not be issued on account of for want of guardian certificate. He submits that matter has been taken up before the competent forum and guardian certificate will be submitted shortly.



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7. In view of what has been stated above, I am of the view that the present Original Application has become infructuous and can be disposed of by giving certain directions to the respondents. Accordingly, the respondents are directed to take up the matter regarding payment of admissible amount of the family pension to the applicant No. 1 as per P.P.O. dated 04.04.2008, if the aforesaid amount has not already been credited in the account of the applicant No. 1 and such exercise shall be undertaken by the respondents expeditiously and in any case not later on two months from today. Similarly, the respondents shall also make the payment of remaining amount of Rs. 5000/- to the applicants within the aforesaid period subject to commercial clearance. It has also been brought to the notice of this Tribunal that cheque No. 681952 dated 30.11.2007 for Rs. 34,714/- in respect of G.I.S. amount has been returned as unpaid. The respondents are directed to look into the matter and issue a fresh cheque for the aforesaid amount immediately and in any case not later on one month from today. Needless to say that as soon as guardian certificate is submitted by the applicants, the respondents shall take expeditious steps for issuing the revised P.P.O. regarding payment of family pension in favour of the applicant No. 2.

8. With these observations, the present Original Application stands disposed of. No order as to costs.

[M.L. Chauhan]
Judicial Member



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S. K. Malhotra
10/3/08

~~Part II and III destroyed
in my presence on
under the supervision of
section officer (J) as per
order dated 19/8/2014~~

~~Section officer (Record)~~