

**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR****ORIGINAL APPLICATION NO. 79/2008**Date of Order: 25/02/2009.**HON'BLE MR. N.D. RAGHAVAN, VICE CHAIRMAN.
HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER.**

Smt. Rukma Devi W/o Late Shri Arjun Ram, Ex-Key Men, Age 78 years, O/o Section Engineer, Northern Railway Phalodi at present N.W. Railway, Phalodi, by caste Jat, R/o Khabra Khurd, Khangar Ki Dhani, Tehsil Osian, District Jodhpur.

...Applicant.

Mr. K.S. Chouhan, counsel for applicant.

VERSUS

1. Union of India, through General Manager, Northern-Western Railway, Head Quarter, Jaipur.
2. Divisional Railway Manager, Northern-Western Railway, Jodhpur.
3. Senior Divisional Personnel Officer, N.W. Railway, Jodhpur.

...Respondents.

Mr. Salil Trivedi, counsel for respondents.

ORDER**[Per Mr. Tarsem Lal, Administrative Member]**

The applicant, Smt. Rukma Devi W/o late Shri Arjun Ram, Ex-Keyman, has filed this Original Application and asked for the following relief:



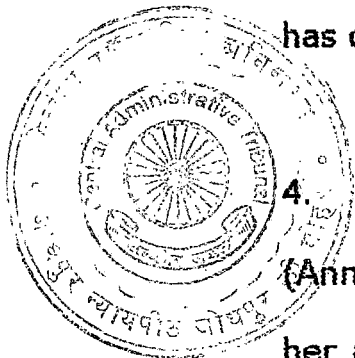
"8 (i). That the rejection order Annx. A-1 dated 14-02-2008 may kindly be quashed and set aside and the Clause-3(6) of the Office Memorandum dated 13.06.1988 be declared illegal and unconstitutional being discriminatory and gives unequal treatment among equal and respondent may be directed to grant the benefit of Ex-gratia benefits to the applicant along interest thereon @ 18% p.a. till the actual payment is remitted to the applicant.

(ii). That any other order just, proper and appropriate in the facts and circumstances of the case may please be passed in favour of the applicant.

(iii). That the application be allowed with costs."

2. The brief facts as relevant to the case are that late Arjun Ram husband of the applicant was appointed as Gangman on 06.09.1950, superannuated from service on 30.06.1978 and died on 11.12.1993. Mr. Arjun Ram ^{was} subscribing to Contributory Provident Fund during his re-employment in the Railways.

3. After 3rd Pay commission, the Government of India issued memorandum dated 13.06.1988 (Annex. A/2) under which the provision of Ex-gratia pension was made applicable to the widows of the C.P. fund holders and those who have not exercised the option for pension. The C.P. fund holder widows have received the Ex-gratia pension under the provision of O.M. dated 13.06.1988 but the case of the applicant for ex-gratia pension has been rejected by the respondents and the applicant has been treated unequally among C.P. fund holder widows and has caused discrimination among Ex-gratia Pension Holders.

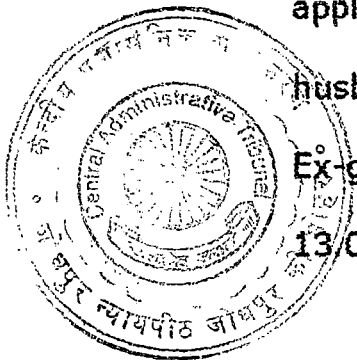


4. The applicant submitted her application dated 20.06.2006 (Annex. A/3) for grant of Ex-gratia Pension. On submission of her application, she was asked to fill up certain documents and also to open a Bank Account but subsequently no intimation in this regard was received from the respondents. The applicant

①

made an application dated 17.01.2008 under Right of to Information Act to know the result of her application. The applicant was replied vide impugned order dated 14.02.2008 (Annex. A/1) under which the claim of the applicant for Ex-gratia Pension has been rejected. Aggrieved by the above, the applicant has filed this Original Application and claimed for the relief as given in para (1) above.

5. The respondents have filed a detailed reply stating that late Arjun Ram was reemployed as Gangman on 06.05.1950 and prior to joining the Railway Service he was employed in the Defence Services and was already getting pension on retirement from Defence Services. While he was re-employed in the Railways, he had opted for C.P. fund Scheme. The Railway Board issued an O.M. dated 13.06.1988 which provides for payment of Ex-gratia payment to the widows of those CPF holders who are not getting pension and opted for CPF Scheme. As late Shri Arjun Ram was already getting pension on account of his retirement from Defence Services and his wife, the present applicant, is getting family pension on account of death of her husband, therefore, the applicant is not entitled for payment of Ex-gratia payment under the provisions contained in O.M. dated 13/06.1988 (Annex.A/2).



6. The respondents state that the applicant has not been treated unequally amongst the CPF holder widows as she is

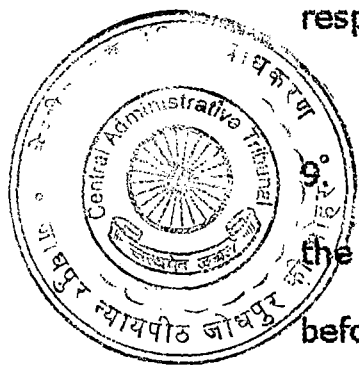
②

already getting the family pension after the death of her husband who was getting the pension on account of his retirement from Defence Services prior to his re-employment in the Railway Services. The O.M. dated 13.06.1988 provides for Ex-gratia payments to the widows / dependent children of the deceased CPF beneficiaries who had retired from services prior to 01.01.1986 and was not getting any pension from other department. As the widow of late Shri Arjun Ram is getting family pension from the Defence Services, therefore, the claim of the applicant has been rightly rejected vide impugned order dated 14.02.2008 (Annex. A/1).

7. The applicant has filed a rejoinder to the reply filed by the respondents wherein most of the pleas already taken by the applicant have been reiterated.

8. Learned counsel for the parties have been heard. They have generally repeated the arguments already given in their respective pleadings.

This case has been carefully considered. It is seen that the husband of the applicant had worked in the Defence Services before joining the Indian Railway and he was getting pension, before his death, from the Defence Department. After his death, his wife, the present applicant, is also getting family pension whereas provision of Ex-gratia payment has been made



(R)

vide Govt. of India OM dated 13.06.1988 for those widows of the C.P. Fund Holders who are not getting any pension etc.

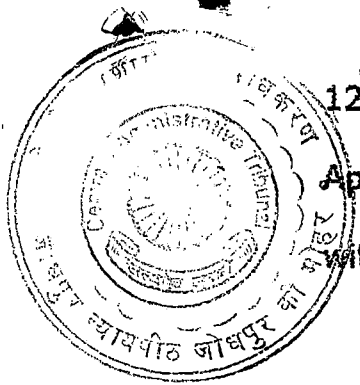
10. It has been seen that paras 3 (5) and (6) of O.M. dated 13.06.1988 (Annex. A/2), provide as under:

"3(5). Where the members of the family are in receipt of family pension under the Extraordinary Pension Rules, the ex gratia payment under these orders shall not be admissible.

(6). The ex-gratia payment shall not be admissible in cases where a pensioner was subscribing to Contributory Provident Fund on re-employment."

11. It is amply clear from the provision of O.M. dated 13.06.1988 that the members of the family who are in receipt of family pension under the Extraordinary Pension Rules, the ex-gratia payment under these orders shall not be admissible. Moreover, the late Govt. servant was subscribing to the C.P.F. during his re-employment with Railways, which is not covered for payment of Ex-gratia pension.

12. In view of the above, it is considered that the Original Application is devoid of any merit and is dismissed accordingly with no order as to costs.



Tarsem Lal
[TARSEM LAL]
ADMINISTRATIVE MEMBER

N.D. Raghavan
[N.D. RAGHAVAN]
VICE CHAIRMAN

21/3/08

[Signature]
28/7

~~Part II and III destroyed
in my presence on 21/3/08
under the supervision of
section officer (1) as per
order dated 28/7/08~~

~~Section officer (Record)~~

Part II and III destroyed
in my presence on 21/3/08
under the supervision of
section officer (1) as per
order dated 28/7/08

Section officer (Record)