

I
12

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 176/2008
JODHPUR, THIS DAY THE 27 MARCH, 2009**

CORAM:

HON'BLE DR. RAMESH CHANDRA PANDA, MEMBER (A)

Smt. Gomti Devi
W/o Late Sh. Ganesh Ram
Ex. Painter in Dy. Chief Engineer (Carriage)
Western Railway, Rana Pratap Nagar,
Udaipur.

.... Applicant.

(By Advocate: Mr. S.K.Malik for the applicant)

VERSUS

1. Union of India
Through the General Manager,
North Western Railway
Jaipur.
2. The Chief Works Manager (E),
North Western Railway,
Ajmer.
3. The Deputy Chief Mechanical Engineer (C&W),
North Western Railway,
Ajmer.

.... Respondents

(By Advocate: Mr. K.K.Vyas, for respondents).

ORDER (ORAL)
[PER DR. RAMESH CHANDRA PANDA, MEMBER (A)]



By this OA Smt. Gomti Devi, the applicant herein, has approached this Tribunal to direct the respondents to give effect to, to the order dated 12.12.2005 (**Annex.A/1**) and to make payment of family pension to the applicant w.e.f. 28.09.1999 along with arrears and interest at 12% per annum.

My aude

2. The brief facts of the case as stated by the applicant are that Shri Ganesh Ram, formerly Painter in the office of Dy. Chief Engineer (Carriage), Western Railway, Rana Pratap Nagar, Udaipur, retired on 20.04.1979 and was granted pension as per rules. His first wife Smt. Shanti Devi expired on 18.12.1980. The applicant got married to Sh. Ganesh Ram on 27.11.1988. On 11.8.1988, the applicant's husband moved an application for making entry of her name and her two children for grant of family pension after his death. Sh. Ganesh Ram's application was rejected by the respondents vide letter dated 7.2.1989 stating that as per rules, marriage after retirement, does not entitle for the family pension (**Annex.A/2**). Sh. Ganesh Ram, husband of the applicant died on 27.7.1999 as per the death certificate dated 6.8.1999 (**Annex.A/3**). The applicant, thereafter, moved an application to the Railway Authorities for sanction of family pension to her. She was requested to submit marriage certificate and other associated documents in the respondents' letter dated 12.03.2003 (**Annex.A/4**). She furnished the details through affidavit to that effect. The applicant submitted the marriage certificate. However, the respondents vide their letter dated 15.12.2003 (**Annex.A/7**), did not accept and rejected the request for grant of family pension. Subsequently, the applicant followed-up with applications dated 12.3.2003, 15.9.2003, 2.12.2003, 15.12.2003 and 30.12.2003 respectively. Consequent to the respondents' letter (dated 3.2.2004) the applicant submitted all the papers concerning family pension in appropriate format to the respondents vide her application dated 28.3.2004 (**Annex.A/10**). Subsequently, she also submitted application form in revised format along with passport size photographs duly attested by a gazetted officer. After a prolonged correspondence and delay, the respondent No. 3, vide his letter dated 12.12.2005 (**Annex.A/1**) intimated the applicant that the competent



My and

authority has sanctioned family pension w.e.f. 28.9.1999 consequent to the death of her husband and the same has been forwarded to the Accounts Office. The applicant has not been favoured with any family pension payment order even after filing of the OA and payment of family pension has not yet been made by the respondents. Accordingly, the applicant having been aggrieved has approached this Tribunal mainly with the prayer as stated herein below:-

"By an appropriate writ, order or direction the respondents may be directed to give effect to order dated 12.12.2005 (Annex.A/1) and further direct the respondents to make payment of family pension w.e.f. 28.09.1999 along with arrears and interest @ 12% per annum."

3. I have heard Sh. S.K. Malik, the learned Counsel for the applicant and Sh. K.K. Vyas, learned Counsel for the respondents and perused the pleadings.

4. Sh. Malik narrated the back-ground of the present O.A. and submitted that the applicant being legally wedded wife of the deceased Railway employee, was entitled to get the family pension from the respondents. Having been sanctioned the family pension; the payment of the family pension had not been made by the respondents. The grievance of non-payment of family pension still persists. He relied on the decision of the Hon'ble Supreme Court in **Smt. Bhagwanti Vs. Union of India and Anr.** (AIR 1989 SC 2088) and contended that

the applicant's O.A. deserves to be allowed and the respondents be directed to pay the family pension.

5. On the contrary, Sh. K.K. Vyas, learned Counsel for the respondents opposed the contentions of Sh. Malik and informed that the respondents have doubt about the genuineness of the marriage certificate submitted by the applicant (**Annex.A/26**). He also drew my attention to the correspondence made between the respondents and



My ans

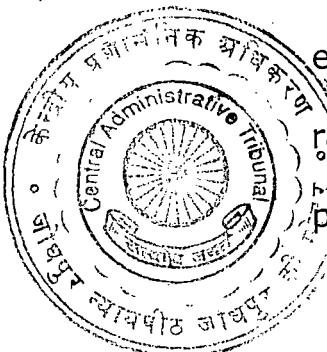
the Fatehpur, Panchayat Sarpanch (Taluka Sahada, District Nandurbar (Maharashtra)). On a query, he informed that no reply had so far been received by the respondents from the Sarpanch of Fatehpur Gram Panchayat.

5. Having heard the rival contentions, I come to the issue which needs my consideration / determination, that as to whether, the applicant is entitled to the family pension on account of her deceased husband. It is an admitted fact that the deceased Railway employee (Ganesh Ram) has submitted a letter to the respondents to make entry of the applicant's name and two children to receive the family pension. This is borne-out in the pleadings. The rejection of the same on the ground that the wife and children subsequent to the retirement of the pensioner are not entitled to family pension is not supported with any rule/instructions. Even on a query the counsel for the respondent could not cite me any available rules or instructions of the Railway Board. On the contrary, the surviving dependants like the second wife of Sh. Ganesh Ram, the deceased Railway employee, in the absence of the first wife, who had already died, the entry of the legal heirs / dependant, to receive family pension, should have been taken due cognizance and orders should have been issued by the respondent after proper verification. The applicant's husband who died on 27.7.1999 could not get the matter settled during his life time and it spilled over even beyond 1999. I also find from the pleadings that the applicant has been approaching the respondents more than a dozen times and the doubt that remains in the minds of the respondents is, whether the applicant is legally wedded wife of the deceased Railway servant and whether the marriage certificate issued, is genuine. If these two doubts are clarified after due verification and goes in her favour, the applicant would be eligible / entitled to the

My order



family pension of the deceased Railway employee. Hence, it would be appropriate to direct the respondents to verify the doubts lingering in the minds of respondents viz (i) whether the applicant is legally wedded wife and (b) whether the marriage certificate is genuine. These need to be inquired into by a responsible officer properly authorized / delegated by the respondent No. 1. On the receipt of his report, the respondent No. 1 will take a considered view and decide the matter of family pension claim of applicant as per the extant rules and instructions within a period of three months. It is needless to mention that if the applicant becomes eligible and entitled, she will be entitled to receive the arrears of family pension along with the simple rate of interest at 8% per annum from the date when the family pension was due till the date of actual payment.



- With the above directions, the Original Application is disposed of with no order as to costs.

[Signature]
[Dr. Ramesh Chandra Panda]
Member (A)

R1 copy
31/3/09
K KURIAH

Ree
S. K. Maitre
08/4/09

Part II and III destroyed
in my presence on 8/4/09
under the supervision of
section officer as per
order dated 07/07/2015

Ree
Section officer (Record)