

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00401/15

Jodhpur, this the 19th day of September, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Sunita Gehlot D/o Late Bhanwar Lal Gehlot aged about 45 years, R/o Inside Nagori Gate, Fort Road, Kalal Colony, Jodhpur (Raj.).

.....Applicant

By Advocate: Mr Samual Masih.

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur, Rajasthan.
2. Divisional Railway Manager, North Western Railway, Jodhpur, Rajasthan.
3. Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur, Rajasthan.

.....Respondents

By Advocate : Mr Kamal Dave.

ORDER (Oral)

The present Original Application has been filed U/s 19 of the

Administrative Tribunals Act, 1985 seeking following reliefs:

- (i) The respondents be directed to grant pension at the earliest.
- (ii) Cost of the litigation may also be awarded to the applicant from the respondents.
- (iii) Any appropriate order or relief which the Hon'ble Tribunal deems fit in favour of the applicant may kindly be granted to the applicant.

2. The facts of the case, in brief, are that the applicant is unmarried daughter of late Shri Bhanwar Lal who served in the Indian Railways. Father of the applicant was drawing pension from the respondent-department vide PPO No. 14900074 and revised monthly pension vide PPO No. 0190140074 w.e.f. 01.01.1996 (Annex. A/2). Shri Bhanwar Lal expired on 01.01.2001 and thereafter, family pension was being paid to the mother of the applicant Smt. Rukma Devi. Smt. Rukma Devi died on 01.01.2013 (Annex. A/3). The case of the applicant is that she is unmarried daughter of Late Shri Bhanwar Lal and as per Railway Service (Pension) Rules, 1993, she is entitled for family pension. She filed an application dated February, 2013 for family pension but the same was rejected by the respondents vide letter dated 06.08.2015 (Annex. A/1) on the ground that her name is enrolled as an advocate and therefore, she is not entitled to get pension. Aggrieved of letter dated 06.08.2015, the applicant has filed the instant OA.

3. The respondents in their reply have stated that an inquiry was conducted through Welfare Inspector for the purpose of taking decision on sanction of family pension to the applicant. In inquiry report, the Welfare Officer concluded that the applicant is unmarried daughter of late employee Shri Bhanwar Lal and is an enrolled member of Bar Counsel of Rajasthan. The Welfare

Inspector, however, concluded that the applicant is not accomplishing any work related to Court and her livelihood is borne by her relatives and near & dear ones. The applicant was asked to submit annual income certificate from the Bar Counsel and also that whether the enrolled advocates can be treated as unemployed. The Secretary Bar Council of Rajasthan vide communication dated 21.05.2015 stated that no income certificate can be issued by his office and advocate cannot be treated as unemployed. The respondents further state that the Rule 75 (6), sub-clause (iii) of Railway Services (Pension) Rules, 1993 entitles family pension to an unmarried daughter until she attains the age of 25 years or gets married, whichever is earlier. It is further explained that the family pension payable to a son or daughter shall be stopped if he or she starts earning his or her livelihood. Hence, the respondents have denied the claim of the applicant.

4. In rejoinder, the applicant has stated that as per the statutory rules, she is not entitled for pension due to her being registered as an advocate with Bar Council of Rajasthan though she has no income through her profession. But, now she has voluntarily suspended her practice and surrendered her Enrolment Certificate to the Bar Council of Rajasthan. The notification dated 18.07.2016 issued by Bar Council of Rajasthan is annexed, in this regard.

5. Heard both the counsels.

6. Ld. counsel for applicant submitted that the applicant had prayed for payment of family pension being unmarried daughter of railway employee Shri Bhanwar Lal. The respondent in their reply has stated that as per the statutory rules, the applicant was not entitled for pension since she was registered as Advocate in the Bar Council of Rajasthan. It was informed that the applicant has voluntarily suspended her practice by surrendering her Enrolment Certificate to the Bar Council of Rajasthan w.e.f. 16.05.2016. A notification to this effect has also been published by the Bar Council of Rajasthan vide Notification No. BCR/Rolls/Not. 2.2016/Ju dated 18.07.2016(Annex. A/7) and the name of the applicant figures at serial number 18. Hence, the applicant's prayer is now covered by Railway Services (Pension) Rules, 1993 for family pension. Accordingly, the respondents may be directed to reconsider the request for grant of family pension to her.

7. On a specific query, the Ld. counsel for respondents submitted that in view of the changed circumstances, as stated by the applicant in rejoinder to the reply, the case of the applicant can be considered, as per the statutory provisions of Railway Service (Pension) Rules, 1993.

8. I have gone through the rival contentions and perused the record. The applicant has now voluntarily suspended her practice by surrendering her Enrolment Certificate w.e.f. 16.05.2016. Even as per the report of the Welfare Inspector of Railway, it is reported that the applicant is unable to maintain herself due to financial paucity and is not in a condition to earn her livelihood. Her case, therefore, certainly merits favourable consideration. Accordingly, the respondents are directed to reconsider the case of the applicant for grant of family pension, as per the relevant Rules on the subject. The case of the applicant may be finalized within 02 months from the date of receipt of copy of this order.

9. In terms of above directions, OA is disposed of with no order as to costs.


[Praveen Mahajan]
Administrative Member

Ss/-

Record
27/09/14

Record
27/09/14
Diver