

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 290/00102/15 with MA No. 290/00057/2015

Jodhpur this the 5th May, 2016.

CORAM

Hon'ble Ms Praveen Mahajan, Administrative Member

Kishani Devi W/o Chotu Ram B/c Balmiki (SC) R/o Ward No. 12, Balmiki Basti, Rajlidesar, Teh. Ratangarh, District Churu, Rajasthan.
Chotu Ram was posted as Safailwala (Commercial) at Railway Station Mokalsar District – Churu.

.....Applicant

(By advocate : Mr K.P. Singh proxy counsel)

Versus

1. The Union of India through the General Manager, North-Western Railway, Head Quarter At Jaipur (Raj).
2. The General Manager (Personnel), Head Office, North Western Railway, Jaipur.
3. The Divisional Regional Manager, North Western Railway, At Bikaner.
4. The Station Master, Mokalsar District, Churu.

(By Advocate : Mr Darshan Jain proxy counsel)

.....Respondents

ORDER

The present application has been filed u/s 19 of Administrative

Darshan

- (i) *That impugned decision of the department of considering the case of applicant under SRPF Rules may be declared illegal and the same may be quashed and set aside.*
- (ii) *That respondents may kindly be directed to grant the all consequential benefits of family pension according to Family Pension Scheme 1964 to the applicant.*
- (iii) *Any other relief, which this Hon'ble Tribunal deems fit and proper in favour of the applicant may be granted. The Original Application may kindly be allowed with costs and all circumstantial benefits may be granted in favour of the applicant.*

2. The necessary facts, in brief, are that the applicant's husband Shri Chotu Ram entered into the services of respondent-railways on 01.03.1965 and he died on 05.05.1981. The Railways granted the applicant benefits under State Railway Provident Fund (S.R.P.F.) Rules after death of her husband. The applicant has averred that her husband never opted for S.R.P.F. rules during his service tenure and the respondent-department suo-moto decided that, since her husband had not opted for family pension, therefore, service benefits will be given according to S.R.P.F. Rules. She being poor and illiterate, and in dire need of money, , without looking at the documents, started accepting the amount from the respondent-department. The Railway Board vide its letter dated 29.12.1982 granted the option to the railway servants governed by S.R.P.F. rules to come over to Family Pension Scheme, 1964. The respondent-department circulated the aforesaid decision to all the Railway Divisions and directed to personally communicate the decision of the Railway Board. After passage of some time when the applicant did not get any pension, she filed an

Dehajan

respondent-department provided her information that during the service tenure of Late Shri Chotu Ram, he did not opt for family pension, therefore, they had given the benefit under SRPF Rules. Aggrieved of the action of the respondents of not giving her pension and considering the case of the applicant under SRPF Rules, the applicant has filed present OA seeking relief mentioned in above para.

3. The respondents in their reply have stated that the Family Pension Scheme in Railway was introduced w.e.f. 01.01.1964 as per Railway Board letter dated 02.01.1964 (Annex. R/1). The applicant's husband was appointed before 01.01.1964 under SRPF Rules and therefore, an option from him to be governed under Pension Rules instead of SRPF Rules was required. But as per entry in his service record, no such option of applicant's husband is available, it is, therefore, inferred that he was governed under SRPF Rules at the time of his death i.e. 05.05.1981. The respondents denied that they decided suo-moto to govern the applicant under SRPF Rules and stated that it was the duty of the applicant's husband to opt for family pension but he did not do so. The applicant has not submitted any proof in the respondent-department to show that her husband submitted any option for Family Pension Scheme. The respondents have further stated that the applicant was fully aware of non-submission of option of her late husband as she accepted all the settlement dues of her husband who expired on 05.05.1981 and applied for ex-gratia pension vide

application dated 28.03.1989. Thus, the respondents have rejected the claim of the applicant.

4. The applicant has also filed an application for condonation of delay in filing the OA. In the interest of justice, I am inclined to hear the matter on the merits as well as technicalities.

5. Heard both the counsels.

6. Ld. Counsel for applicant contended that the respondent-department failed to consider the case of the applicant for family pension and suo moto considered the case of her husband under SRPF Rules. He further argued that the applicant had neither opted for SRPF Rules or Family Pension Rules. The respondents cannot suo moto decide what would be beneficial for the applicant.


7. Counsel for respondents contended that after almost 34 years of death of the applicant's husband and accepting all the settlement dues of her husband under S.R.P.F. Rules and applying for ex-gratia pension in the year 1989, there is absolutely no justification available to the applicant to claim pension under Family Pension Scheme at such a belated stage.

Moreover, this fact was informed to her in the year 2008.

8. I have considered the rival contentions and also perused the record. While going through the pleadings and documents annexed by both the parties, I find that the death of the husband of the applicant took place in the year 1981 and after that she herself took the benefits as available under the S.R.P.F. Rules and also applied for ex-gratia pension vide application

husband. More so, she was communicated by the respondents about their stand in the year 07.07.2006 (Annex. R/2) but then also she failed to agitate her grievance. Therefore, looking to entire facts and circumstances of the case, I am not inclined to condone the delay of almost 34 years. I do not find force in contention of the applicant that due to her illiteracy she accepted the benefits under S.R.P.F. Rules and then suddenly discovered that she can claim Family Pension.

9. Therefore, OA lacks merit and is hopelessly barred by limitation. Accordingly, OA as well as MA is, thus, dismissed with no order as to costs.


[Praveen Mahajan]
Administrative Member