

In the Central Administrative Tribunal
Calcutta Bench

OA No.732 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Kumari K. Rukmani

.... Applicant

- VS -

- 1) Union of India, service through the General Manager, S.E. Railway, Garden Reach, Calcutta.
- 2) General Manager, S.E. Railway, Garden Reach, Calcutta.
- 3) Chief Project Manager, S.E. Rly., Workshops, Kharagpur.
- 4) Dy.Chief Accounts Officer(Workshops), S.E.Railway, Kharagpur.

.... Respondents

For the Applicant : Mr. P.K. Ghosh, Advocate
Mr. S.N. Mitra, Advocate

For the Respondents: Mr. P. Chatterjee, Advocate

Heard on : 12-5-99

Date of Judgement : 12.5.99

ORDER

One Kumari K. Rukmani claims to be unmarried daughter of Late K.K. Rao, Ex-Slinger (Ex.T.No.7407) M/s. Shop, S.E. Railway Workshops, Kharagpur. Grievance of the applicant is that she is unmarried daughter and physically handicapped by birth and she is not at the age of 25 years. But Railway authority did not give her family pension for her handicapeness as per circular issued by the railway authority (Serial No.12C/9C (No.E/10/Family Pension) dated 4.6.90 where it is mentioned that the family pension would be admissible to the children who^{are} found disabled and unable to earn a living even after attaining the age of 25 years and she submits that applicant, being unmarried and disabled daughter, is entitled to get benefit of family pension even after attaining the age of 25 years. Dur to denial of the pension as claimed by her, she approached this

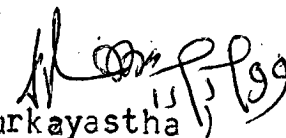
Tribunal for direction upon the respondents to pay family pension w.e.f. 29.1.83 onwards together with interest at the rate of Rs.15% thereon from 29.1.83 till the amount as due and payable is actually paid. In support of this application she produced one medical certificate marked as Annexure-A to the application.

2. The respondents denied the claim of the applicant stating, inter-alia, that late K.K. Rao retired from service on superannuation w.e.f. 31.6.80 afternoon and necessary PPO was issued to K.K. Rao. It is also stated that K.K. Rao subsequently expired on 28.1.83. But the nomination form and statement showing details of the family member for family pension dated 8.9.81 (Annexure R-1 to the reply) submitted by K.K. Rao does not include the name of the applicant as dependent of the deceased employee. It is also stated that as per railway circular the applicant is not entitled to get any benefit since father of the applicant, during his life time, did not include the name of the applicant. Hence, application is not tenable and accordingly, the application is liable to be dismissed.

3. Id. Advocate Mr. Ghosh submits that due to over-sight name of the applicant was not included in the composition of the family description in the nomination form submitted by the father of the applicant. But there is medical certificate which clearly indicates that the applicant is a daughter of the deceased railway employee, namely, K.K. Rao. So, she is entitled to get benefit since she was found medically handicapped and disabled by birth from the medical certificate.

4. Id. Advocate Mr. Chatterjee on behalf of the respondents submits that the railway authority cannot act unless the name of the applicant is found in the declaration form submitted by the deceased government employee declaring the family members while he was in service for the purpose of family pension. He further submits that medical certificate regarding disabled condition of the applicant ought to have been signed by the Divisional Medical Officer; but no certificate was produced by the applicant from the Divisional Medical

5. In view of the aforesaid circumstances, it is to be considered whether Tribunal can decide status of the applicant for the purpose of granting family pension unless the name of the applicant is recorded in the service book as dependent of the deceased employee or retired employee. In the instant case, applicant could not produce a scrape of paper before me showing that her name was included in the service book of the deceased employee as dependent. ^{as a daughter} Similarly, I find a declaration Form for granting pension had been signed by the deceased employee on 8.9.81 and that declaration clearly indicates that the deceased died leaving ~~only~~ two sons only and it was stated that the wife expired. The said declaration further indicates that the deceased had no minor children or any other wife. In view of the aforesaid circumstances, I am of the view that name of the applicant was not declared as dependent by the deceased employee in the declaration form which was signed by the deceased employee on 8.9.81. Thereby, it would not be appropriate on the part of the Tribunal to treat the applicant as unmarried daughter of the deceased govt. employee for the purpose of granting family pension. In view of the aforesaid circumstances, liberty is given to the applicant to approach the competent Court for getting declaration in this regard. Thereafter, she can approach the authority for getting appropriate relief as sought for in the application. Accordingly, application is disposed of awarding no cost.


(D. Purkayastha)
Member (J)