

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

CALCUTTA

O.A.No.564/97

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

PRABHABATI CHATTERJEE

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B. Mukherjee, counsel

For the respondents : Mr. P.C. Saha, counsel

Heard on : 17.3.99

Order on : 17.3.99

O R D E R

When the case is taken up for hearing, Mr. P.C. Saha ld. counsel for the respondents submits that the respondents asked him to return the file of this case and he has no instruction to appear in this case. But ld. counsel Mr. B. Mukherjee is present on behalf of the applicant. However, the case is taken up for hearing despite submission of the ld. counsel Mr. P.C. Saha.

2. The case of the applicant in short is that her husband Late Tarapada Chatterjee, Ex-Station Master, South Eastern Railway, Kalaikunda, Kharagpur Division retired from service on 30.6.67 and died after retirement on 26.12.85. Thereafter the applicant applied for ex-gratia pension after getting a Post-Retirement Pass bearing No.819358 with dated 17.11.78 issued in favour of her husband, but her ex-gratia pension has not yet been granted and therefore, the applicant filed this application before the Tribunal for direction upon the respondents to grant her ex-gratia pension month by month in terms of the Railway Board Circular No. PC-IV/87/Imp/1 dated 30.6.88 as well as in RBE No.147/88 read with RBE No.38/89 and in terms of Rly. Board's letter No.P(E)111/88/PN-1/23, dated 13.2.89 alongwith all consequential benefits and with ~~restitution~~

3. Respondents did not file any reply to this O.A. It is found that the applicant's case was referred to Pension Adalat in 1995 and 1996 but she did not receive any order from the Pension Adalat till date though the son of the applicant attended the Pension Adalat on behalf of his mother (Applicant) as appears from the letter dated December, 1996 (Annexure A-9).

4. Mr. Mukherjee ld. counsel for the applicant submits that the respondents did not pay ex-gratia pension to the applicant on the ground that the Provident Account of her husband is not available with the department. He further submits that in view of the letter dated 1.12.95 (Annexure A-6) and the letter dated 17.1.96 (Annexure A-7) there should not be any difficulty to grant ex-gratia pension to the applicant in absence of Provident Fund account of her husband as mentioned in the letter dated 10.4.95 (Annexure A-4).

5. I have considered the submissions made by the ld. counsel for the applicant and have gone through the records produced before me. It is found from the letter dated 10.4.95 (Annexure A-4) that the respondents refused to make payment of ex-gratia pension to the applicant solely on the ground that Provident Fund No. was not recorded in the application form. But from the letter dated 1.12.95 (Annexure A-6) it is found that Provident Fund Account of the employee is required only to avoid duplicate payment. So, the respondent cannot deprive the applicant from getting ex-gratia pension solely on the ground that Provident Fund/number was not recorded. Necessary steps ^{ought} ~~should~~ have been taken by the respondents for avoiding duplicate payment, ~~otherwise~~ and for making payment of ex-gratia pension to the applicant. But the respondents did not take action in pursuance of the letters marked Annexure-6 and Annexure-7 to the application. The applicant also did not receive any order from the Pension Adalat.

6. In view of the aforesaid circumstances, I find that the applicant is entitled to get ex-gratia pension from the respondents if she is found otherwise fit to get the same as per rules. The

in the year 1994, she is entitled to get ex-gratia pension w.e.f. the date of filing application for ex-gratia pension i.e. from 11.12.94. In view of the above, I find it would be a fit case to direct the respondents to make payment of ex-gratia pension to the applicant w.e.f. 11.12.94 with all benefits and within three months from the date of communication of this order. The applicant is also entitled to get interest at the rate of 12% on the amount of ex-gratia pension w.e.f. 11.12.94 till the payment is made. With these observations, the application is disposed of awarding no costs.

Alka, 17/1/95
(D. PURKAYASTHA)
MEMBER(J)

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