

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 421 of 2011

Tuesday, this the 17th day of July, 2012

CORAM:

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

J. Lakshmikutty Amma,
Aged 63 years,
W/o. K. Sreedharan Pillai,
Kala Bhavan, Irukunnam,
Ambalakara Post, (Via) Vaikom,
Ummannoor Panchayat,
Kottarakkara Taluk, Kollam District ... Applicant.

(By Advocate Mr. T.C. Govindaswamy)

v e r s u s

1. The Union of India, represented by
The General Manager, South Central Railway,
Headquarters Office, Secunderabad,
Andhra Pradesh : 500 009
2. The Chief Administrative Officer/Construction/
South Central Railway, Headquarters Office,
Secunderabad, Andhra Pradesh : 500 009
3. The Deputy Chief Engineer/Gauge Conversion/
Construction, Presently South Western Railway,
Hubli, Dharwar District, Karnataka : 580 023
4. The Divisional Railway Manager,
South Western Railway, Hubli Division,
Hubli, Dharwar District, Karnataka : 580 023
5. The General Manager,
South Western Railway, Hubli,
Dharwar District, Karnataka : 580 023 ... Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

This application having been heard on 09.07.12, the Tribunal on 17-07-12
delivered the following :-



ORDER**HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

The applicant is widow of late K. Sreedharan Pillai who passed away while in service of the South Central Railway on 09.05.1998. The applicant is aggrieved by the refusal on the part of the respondents to grant her family pension and other terminal benefits.

2. Late K. Sreedharan Pillai had joined the service of the respondents as Mopla Khalasi on 29.01.1979. He was given temporary status with effect from 01.01.1983. He was transferred from time to time to various places. While in service, he was found dead on 09.05.1998 on a public road at Miraj. Necessary pension papers were collected by the authorities. But no family pension was granted till date. However, the daughter of the deceased was granted appointment on compassionate ground as per order dated 06.11.2000.

3. The applicant submitted that she is identically situated as the applicant in Annexure A-8. Therefore, she is entitled to the benefit of family pension with effect from the date next after the date of demise of her husband. In terms of Railway Board orders at Annexures A4 to A-7 and consequential orders thereof, the applicant's late husband was provided with lien with effect from 01.02.1996 against a Group-D post. Her husband being a regular employee, she is entitled to get family pension.

4. The respondents in their reply statement submitted that Late K.



Sreedharan Pillai had expired on 09.05.1998 before regular absorption in any post, therefore, the applicant is not eligible for family pension. As per the Railway Service (Pension) Rules, 1993, only half of the service rendered by any temporary Railway servant from the date of temporary status to the date of regular absorption is to be considered for grant of pensionary benefits. As such K. Sreedharan Pillai had completed ~~only~~ 07 years, 8 months and 4 days only and not 20 years qualifying service, as stated by the applicant.

5. We have heard Mr. T.C. Govindaswamy, learned counsel for the applicant and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents and perused the records.

6. This O.A is identical to O.A. No. 43/2009 at Annexure A-8. The aforesaid O.A. was allowed vide order of this Tribunal dated 12.11.2009 as under :

"7. Counsel for the respondent submitted that as the applicant's husband was not regularized, only service gratuity was granted and no family pension is admissible to her.

8. Arguments were heard and documents perused. That the applicant's son had been considered and granted compassionate appointment is undisputed. Similar is the fact that the applicant had been provided with service gratuity. The extant rules provide for compassionate appointment or for payment of terminal gratuity for a regular or temporary railway employee (in contra distinction to temporary status railway employee). As such, for the purpose of grant of compassionate appointment or for that matter, for payment of terminal gratuity (death gratuity) if the services of the applicant's husband were held to be regular, there is no reason as to why, for the purpose of family pension the services have not been treated as regular. It is trite that in the absence of a differentiating feature, what is sauce for a goose is also sauce for the gander. Again, as per the Railway Board Circular, all the casual labourers were to be regularized. For the lapse on the part of the respondents in respect of



regularization on time of the services of the spouse of the applicant, the applicant cannot be penalised.

9. In view of the above, the O.A. is allowed. It is declared that the applicant is entitled to grant of family pension as per the extant rules. The extent of arrears of pension shall be restricted to the extent that family pension from 01-01-2006 (three years anterior to the date of filing of the OA, i.e. January 2009). Claim for interest on arrears is rejected. The applicant shall be paid future pension as well."

7. Following the decision of this Tribunal in O.A. No. 43/09, this O.A. is allowed as under.

8. The respondents are directed to grant family pension and other death benefits to the applicant with all arrears consequent thereto, within a period of 3 months from the date of receipt of a copy of this order. No costs.

(Dated, the 17th July, 2012)



K. GEORGE JOSEPH
ADMINISTRATIVE MEMBER

CVR.