

CENTRAL ADMINISTRATIVE TRIBUNAL
 ERNAKULAM BENCH
O.A. NO.501/2011

Dated this the 21st day of June, 2012

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HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

R.Ambika, W/o (late) T.Rathinam,
 (Ex-Sr.Trackman) O/o the Sr.Section Engineer/
 Permanent Way/Bommidi Section, Southern Railway,
 R/o Perumalkoil Street, Gandhi Nagar, Kadathur P.O
 Pappireddipatty Taluk, Dharmapurai Dt.

.Applicant

(Mr. T.C.Govindaswamy, Advocate)

Vs.

1 Union of India represented by the General Manager,
 Southern Railway, Headquarters Office, Park Town
 Chennai - 600 003.

2 The Sr.Divisional Personnel Officer,
 Southern Rly, Palaghat Division, Palaghat-678002.

3 The Divisional Finance Manager, Southern Railway,
 Palaghat Division, Palaghat-678002.

4 The Divisional Personnel Officer
 Southern Railway, Salem Division, Salem-636005.

Respondents

(By Advocate Mrs.P.K.Radhika)

The application having been heard on 19.6.2012, the Tribunal held
 as under:

ORDER

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by the inaction on the part of the
 respondents to grant the benefit of family pension and other consequential
 arrears of the same.

2 Brief facts of the case as stated by the applicant are that while

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working as Senior Trackman under the Sr.Section Engineer/Permanent Way, Bommidi Section of the then Palghat Division of the Southern Railway Sri T.Rathinam was medically declared unfit and discharged from service during the year 2005. On that basis, the son of the applicant was appointed on compassionate grounds. The applicant's late husband was drawing family pension from the 3rd respondent. While so, on account of some difference between the applicant's husband and the applicant she was compelled to stay away from her husband. On 30.5.2009 the applicant's husband passed away leaving behind the applicant. A legal heirship certificate in favour of the applicant issued by the Taluk Officer is at Annx.A2. It is averred that on an enquiry she came to know that her name was not included in her husband's Pension Payment Order to enable her to draw the family pension automatically. When Salem Division was formed, the place where the applicant's husband was working came under the Salem Division w.e.f 1.11.2007. Immediately after the death of her husband she represented to the authorities of Salem Division as also Palghat Division to grant family pension to her as she is the legally wedded wife of late T.Rathinam. Since the respondents were neglecting her request she was constrained to file OA 406/10 before this Tribunal praying for a direction to grant her family pension. The said OA was disposed of directing the respondents to dispose of the representation submitted by the applicant within 2 months. In compliance of the said order the 2nd respondent issued Annx.A7, Annx.A8 and Annx.A9 informing her to submit the legal heirship certificate and all the original documents. Thereafter the 2nd respondent issued another communication Annx.A11 stating that the Village Administrative Officer has given a certificate that the applicant had deserted her husband about 15 years ago and living with another person in Kadathur Village. This fact was also certified by the Village Administrative Officer, Kethareddypatti. It is further stated in the communication that the applicant has not produced any document to show that she is the legally wedded wife of late T.Rathinam.

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She submitted fresh legal heirship certificate issued by the Tehsildar in her favour alongwith another certificate stating that she had not conducted a second marriage as alleged. Narrating all these facts, the applicant submitted a fresh representation dated 9.3.2011 (Annx.14) to the 2nd respondent alongwith original documents. So far nothing is heard from the 2nd respondent nor was the family pension released. She further submitted that grant of family pension is a statutory duty cast upon the respondents and failure to discharge the same is arbitrary and discriminatory.

3 The respondents contested the OA by filing their reply. In their reply statement it is averred that the claim of the applicant relates to grant of family pension and that the applicant's identity as a widow of the deceased Railway pensioner and her entitlement to get the family pension consequent on the demise of the Railway pensioner is in dispute the legal aspects which is to be adjudicated before the competent Court of law. Therefore, the applicant cannot invoke the jurisdiction of this Tribunal under the Administrative Tribunals Act, 1985. They further submitted that while disposing the OA 406/2010, this Tribunal held that if the applicant is the legally wedded wife of Shri Rathinam, she is entitled for family pension. The contention of the respondents is that neither the name of the applicant was mentioned or declared in the record of the ex-employee's family composition nor the family composition of their son Sri R.Fernandez who is the beneficiary of compassionate appointment. Therefore, the respondents are unable to recognise the applicant for grant of family pension.

4 I have heard the learned counsel for the parties and perused the documents.

5 The short question that comes up for consideration is whether the applicant is entitled to receive family pension due to the death of her husband, an employee of the Southern Railway.

6 This is the second round of litigation. In compliance with the direction issued by this Tribunal in OA No.406/2010, the respondents



issued Annx.A11 impugned order. The respondents have instructed the applicant to obtain legal heirship certificate from the Tahesildar. In the aforesaid order the respondents rejected her claim for family pension mainly on the ground that she produced only a Xerox copy of an unsigned legal heirship certificate after many reminders. It was also mentioned that her name was not included as wife in the family composition certificate given by the employee from 1998 to 2004 and that she deserted her husband and lived with another person. The applicant moved M.A No.501/2011 producing a copy of the letter of Tahesildar certifying the genuiness of the legal heirship certificate issued by him. This was in response to Annx.R-7 letter of the Sr.Divisional Personnel Officer, addressed to the Tahesildar requesting him to verify the genuiness of the legal heirship certificate. Resultantly the applicant could now produce Annx.A12 legal heirship certificate signed by the Tehsildar in her favour and Annx.A13 certificate from Tahesildar showing that she had not contracted a second marriage. The respondents have admitted the receipt of these certificates. According to the applicant the marriage between the deceased and the applicant was not legally dissolved nor there is any case pending for divorce which would prohibit her claim to family pension. The respondents have conceded that her name appeared as wife in the family composition certificate till 1994. ^{note} Since she had ^A remarried she is still legally wedded wife and widow of the late employee. Therefore she is the legally wedded wife and widow of the deceased who is entitled to claim family pension. This Tribunal while disposing of the earlier O.A 406/2010 have held that "If the applicant is the legally wedded wife of Sri Rathnam, she is entitled for family pension". There is no other claimant for the family pension other than the applicant. In such circumstances her claim is just and legal leaving aside the ethical and moral issues of her desrting her husband for many years. The proof sought by the respondents and submitted by the applicant will also establish that she is the legal heir and widow of the deceased.



7 In this view of the matter, the OA succeeds. I, therefore, declare that the applicant shall be entitled for family pension on demise of her husband on 30.5.2009. The respondents are directed to pay family pension from 31.5.2009 within four months from the date of receipt of a copy of this order. No costs.

(Dated 21st June 2012)


(K.NOORJEHAN)

ADMINISTRATIVE MEMBER

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