

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 556 of 2007

Thursday, this 17th day of July, 2008

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

S. Kuppusamy,
(S/o. Late P. Singaraj, Ex-Trackman,
Veeraraklam RS/Southern Railway/
Palghat Division), Residing at
R. Puudukkottai, V.K. Pudur,
Krishnarayapuram Taluk,
Karur District, Tamil Nadu

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Applicant.

(By Advocate Mr. T.C. Govindaswamy)

v e r s u s

1. Union of india, represented by
The General Manager, Southern Railway,
Headquarters Office, Park Town P.O.,
Chennai : 3

2. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat.

3. Smt. Valliammal,
W/o. (late) P. Singaraj,
Railway Colony, Veerarakiam RS & PO,
Krishnarayapuram Taluk,
Karur District, Tamil Nadu

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Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil for R1 & R2)

The Original Application having been heard on 17.07.08, this Tribunal on the same day delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The disbursement of terminal benefits of late P. Singaraj (F/o. The applicant through his first wife) is the issue involved in this O.A. The brief facts of the case are as under :

(a) The applicant is the son of late P. Singaraj, who passed away on 3.2.2007 while working as a Trackman, Veerarakiam, Railway Station (under Senior Section Engineer/Permanent Way/Trichy Fort) of the Southern Railway, Palghat Division. The applicant's mother, the first wife of late Singaraj, out of whose relationship, two children were also born, had passed away on 2.12.1984. Upon the demise of applicant's father, there seems to be an attempt to arrange payment of the entire death benefits to the 3rd respondent, the second wife of the deceased. The applicant submitted a representation dated 13.02.2007 followed by another representation dated 2.3.2007 vide Annexure A/2 with copy of the legal heirship certificate vide Annexure A/3 and A/3 (a) respectively.

(b) The applicant understands that hasty steps are being taken by the respondents to disburse the entire death benefits in favour of the third respondent. In case the amounts are so disbursed, without considering A2 representation, substantial prejudice and loss would be caused to the applicant. Hence, this application to declare that the non feasance on the part of the respondents to settle the death benefits of the applicant's late father and to grant the applicant his share of settlement benefits in accordance with law is arbitrary, discriminatory, contrary to law and hence unconstitutional and to direct the second respondent to take a decision on Annexure A2 and to grant the applicant his share of the death benefits on account of the demise of the applicant's father forthwith, with interest at the rate and from a date as may be found just and proper by this Tribunal and further to direct the respondents to consider the applicant for appointment on compassionate grounds and to grant him consequential benefits thereof.

2. The respondents have submitted that this O.A. is premature. Their version is as follows:

(a) Shri P. Singraj was working as Gate Keeper in Palghat Division of Southern Railway and died while in service on 03.02.07. As per the clarification of the immediate Supervisor of the Ex-employee, the following are the beneficiaries to receive eligible amount and share as per their entitlement from the settlement dues to be arranged in favour of the deceased.

(i) Smt. S. Valliyammal	- Widow (Second wife)
(ii) Shri Kuppusamy	- Son of pre-deceased wife
(iii) Shri Malayalan	- Son of Smt. S. Valliyammal

(b) The settlement dues viz. Death cum Retirement Gratuity, Group Insurance Scheme benefits, benefits under Social Security Scheme and amount in Provident Fund are to be paid as per the nomination of the deceased employee. A sum of Rs. 97,889/- has to be recovered for the settlement dues towards Government dues etc. The applicant is eligible to get an equal share in the payment of Death-cum-Retirement Gratuity. In regard to payment of Group Insurance Scheme, the deceased employee had nominated his pre-deceased wife, Smt. Pappa. Since the nominee is pre-deceased, it will be construed as absence of nomination. In case of absence of nomination, the benefit will be payable to the widow and minor son. Major son and daughters are not eligible to receive this payment in the absence of nomination. Provident Fund accumulation will be paid as per the nomination under PF rules. The deceased had not executed any nomination. In the cases of absence of nomination, the amount at credit will be payable to the widow and minor son only as the sons who have attained legal majority and married daughters whose husbands are alive are not eligible to receive the above amount as per the extant provisions of PF rules. In respect of benefits under Social Security Scheme, the deceased employee had nominated Smt. S. Valliyammal. Hence the same will be disbursed in her favour.

(c) In order to disburse the eligible dues, the relevant statement papers which are to be submitted by the applicant were given through

the 3rd respondent to submit the same for processing since the correct address of the applicant is not known. In response, the 3rd respondent advised the 2nd respondent that the applicant was non-cooperating and refusing to sign the settlement papers vide her letter dated 06.07.07 (Annexure R/3 and R/3(a)). On knowing the correct address from the O.A., the relevant forms viz., Form 12 (Permanent address and mode of payment of DCRG) and Form 15 (application for the grant of DCRG/Residuary Gratuity to the nominee/family of the deceased employee) were handed over to the applicant in person on 10.11.07. The applicant is yet to submit the same for processing for payment.

(d) The grant of compassionate appointment depends not only on the relationship of the claimant to the deceased employee, but also on various other factors such as the financial crisis of the family, number of dependent members of the family etc.. Taking into account all these factors it is for the Railway Administration to decide as to whether compassionate appointment should be granted; and if so, to whom it should be granted among eligible members of the family of the deceased employee. The appointment on compassionate ground cannot be claimed as a matter of right. For offering appointment on compassionate ground, the widow has to apply for the same to offer the same to her or to the dependents of the deceased and the same will be considered duly taking into account of all the above factors and other eligibility conditions.

(e) Delay in disbursement is due to non submission of relevant applications/forms, permanent address, Bank Account Number/details etc. and not on the part of official respondents.

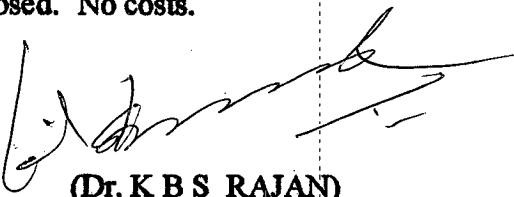
3. The learned counsel for the applicant submitted that the applicant could be furnishing all the details as called upon. Counsel for the respondents submitted that whatever is the legitimate due to the applicant, the same shall be disbursed to him.

4. Arguments were heard and documents perused. By Annexure R/1, the nomination in respect of Group Insurance Scheme was in the name of mother of the applicant, who however, pre-deceased wife of the applicant's father. It has been stated by the respondents in the counter that only the widow and minor son are entitled to for this benefit. This aspect has to be again verified and in case the applicant is not entitled to eligible for the share of death benefits of his father as per rules, he be informed of accordingly.

5. As regards the compassionate appointment, the applicant may well apply along with the no objection from the step-mother, surviving widow of applicant's father, and in that event, he would undertake that he would look after the step-mother also. Share in other terminal benefits as per rules be disbursed to the applicant.

6. In the event of applicant's completing his part of the job (furnishing necessary papers duly signed), respondents shall disburse the dues payable to the applicant in accordance with the rules within a period of two months from the date of furnishing such papers by the applicant.

7. With the above directions, the O.A. is disposed. No costs.



(Dr. K B S RAJAN)
JUDICIAL MEMBER

cvr.