

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 557 OF 2007

Thursday, this the 22nd day of May, 2008

CORAM :

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

K.Daiwani
W/o Late R.Swaminathan
(Ex-Technician/Electrical/Southern Railway)
Residing at "Vanaja Niwas"
Kallekulangara, Palghat – 9 : **Applicant**
(By Advocate Mr.T.C.G. Swamy)

vs.

1. Union of India represented by the General Manager
Southern Railway
Headquarters Office, Park Town P.O
Chennai – 3
2. The Chief Workshop Manager
Signal & Telecommunication Workshop
Southern Railway, Podanur
Coimbatore District : **Respondents**

(By Advocate Mr.Thomas Mathew Nellimoottil)

The application having been heard on 22.05.2008, the Tribunal
on the same day delivered the following :

ORDER

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

The applicant in this case is the second wife of late
R.Swaminathan, who was working as a Technician/Electrical in the
Signal & Communication Workshop of Southern Railway at Podanur
under the 2nd respondent, namely, Chief Workshop Manager, Signal &
Communication Workshop of Southern Railway at Podanur. Shri
Swaminathan was missing from 09.02.2004. The applicant reported the
matter to the Police officials on 16.12.2006 and FIR No. 300 was lodged.

The Police authorities vide Annexure A-1 report dated 18.03.2007
informed that Shri Swaminathan is untraceable. Thereafter, the applicant



submitted the representation dated 16.04.2007 (Annexure A-2) requesting the 2nd respondent to deem her husband passed away and to arrange to grant her the family pension and other terminal benefits, as provided for under the relevant rules.

2. In this regard, the Railway Board has issued necessary instructions vide their letter No.F.(E) III/86-PN-I/17 dated 19.09.19986 (Annexure A-3). According to the said letter, when an employee disappears leaving his family, the members of the family shall be paid the amounts due on account of salary, leave encashment and the Provident Fund pertaining to his own subscription in the State Railway Provident Fund having regard to the nomination made by the employee in the first instance. After the lapse of a period of one year, other benefits like DCRG/Family pension and the Government contribution/special contribution towards Provident Fund in respect of staff governed by SRPF (Contributory) Rules shall also be granted to the family subject to the fulfillment of certain conditions. For this purpose, the eligible members of the family has to apply to the Head of Office of the Government servant in the prescribed form. In case the disbursement of DCRG or SC to PF, as the case may be, is not effected within three months of the date of application, the interest shall also be paid at the rates applicable and responsibility for the delay shall be fixed in accordance with the extant orders. Railway Board vide circulars No. 63/91 dated 27.03.1991 and No.3/94 dated 21.01.1994 further clarified the position regarding grant of settlement dues to eligible family members of employees who have suddenly disappeared and whose whereabouts are not known. (Annexures A-4 and A-5 respectively). According to the applicant, she has made the Annexure A-2 representation dated 16.04.2007 but the respondents did not so far granted any benefits to her.



3. Respondents in their reply statement has submitted that the applicant has approached this Tribunal before completion of one year from the date the fact that the railway employees has been missing was reported to the Police authorities, i.e. 16.12.2007 and therefore the O.A is pre-mature. In a subsequent affidavit filed by the respondents, they have also submitted that Shri Swaminathan had earlier married one Suseela and he had two sons and one daughter in that marriage and as per the extant rules, those children are also eligible for settlement benefits. However, the respondents have further submitted that settlement papers have already been sent to the applicant on 15.02.2008 by registered post and the action is being taken separately to drop the departmental action pending against Shri Swaminathan for his unauthorised absence from 09.02.2004.

4. I have heard Mr.TCG Swamy, counsel for the applicant and Mr.Thomas Mathew Nellimoottil, counsel for respondents. It is an admitted fact that Shri Swaminathan is missing from 09.02.2004 and FIR has been lodged on 16.12.2006 regarding his disappearance. The Police has also reported that Shri Swaminathan is undetectable. In terms of Annexures A-3,4 & 5 circulars of the Railway Board, the applicant is entitled to get the terminal benefits prescribed therein within certain time limit. It is noted that the respondents have failed to adhere to the prescribed time limit in disbursing the amount due to the applicant. When the FIR has admittedly been lodged on 16.12.2006, the respondents should have released the dues which are admissible to the applicant in terms of the letter dated 19.09.1986 issued by the Railway Board. Thereafter, on completion of one year of filing FIR, respondents should have taken necessary steps to pay rest of the benefits also as



admissible to the applicant. Now the respondents have dispatched the necessary pension forms to the applicant and she has submitted the same. According to the applicant, all the requisite conditions for grant of terminal benefits have been fulfilled by her. The respondents have also not disputed her right to receive atleast 50% of the settlement benefits. Therefore, there shall not be any further delay on the part of the respondents in disbursing the admissible terminal dues to the Applicant and the entire terminal benefits due to the Applicant shall be paid to her within a period of three months from the date of receipt of this order. If necessary, the respondents should depute a person from their Welfare Department to assist the Applicant to complete any further formalities pending in this regard.

5. With the above directions, this O.A is disposed of. There shall be no order as to costs.

Dated, the 22nd May, 2008.



GEORGE PARACKEN
JUDICIAL MEMBER

vs