

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision : 6-4-1990

Present

Hon'ble Shri NV Krishnan, Administrative Member

and

Hon'ble Shri N Dharmadan, Judicial Member

DA 616/89

K. Nanikutty Amma

: Applicant

Vs.

1. The Senior Divisional Personnel
Officer,
Divisional Office, Southern Railway,
Palghat -2.

2 Union of India rep. by the
Secretary, Ministry of Railway,
New Delhi.

3. Smt A Madhavi Amma
Aniyath House
Paruthipara, Shoranur

: Respondents

Mr MN Prathapan

: Counsel of Applicant

Mr MC Charian (for R 1 & 2)

Mr R.Rajasekharan Pillai(for R3) : Counsel of Respondents

ORDER

Shri NV Krishnan, Administrative Member.

The applicant claims to be the wife of late Shri K. Ittaman Nair, Ex-Fireman, Southern Railway, B/Shoranur who died on 1.8.80. When she made a claim for getting the family pension from Respondents 1 & 2, she was informed that another lady Smt. A Madhavi Amma has also made a claim for family pension on the ground she was also the wife

of the deceased Government Servant vide Annexure AIV letter. Smt. A Madhavi Amma is the third respondent in the present case.

2 It is seen from the letter dated 19.12.88 (Annexure AVI) that the applicant was informed that in the circumstances they cannot grant her the family pension treating her as the only wife of the deceased government employee. She was advised to produce necessary Succession Certificate from a competent Court.

3 It is in this circumstance that the applicant has approached this Tribunal seeking a direction to the respondents to grant her the family pension treating her as the wife of the deceased Government Servant.

4 Respondents 1 & 2 have filed a counter^{affidavit}/stating that the family pension is due consequent upon the death of Shri Ittaman Nair, but as there are two claimants they have been advised to produce a Succession Certificate on the basis of which alone the family pension could be disbursed to one of them.

5 Smt Madhavi Amma, Respondent-3 has filed a reply stating that she was the first wife of the deceased Government Servant and she denies that the applicant has any claim on family pension.

6 The matter was heard at great length on two occasions when an opportunity was given to the counsel of the applicant and the third respondent to find out if an out of Court settlement could be reached. Accordingly, the

counsel of the applicant and the counsel of the third respondent have to-day filed a joint statement it is stated for which purpose they have been authorised by the respective clients. In that statement it is mentioned that the matter has been settled out of Court and that ~~the~~ the parties have agreed to share equally (i.e., 50% each) the family pension, consequent upon the death of Shri Ittaman Nair Ex- Fireman/ B Shoranur. It is further stated that the ^{settlement} ~~XXXXXX~~ applies both to the arrears due, as well as to recurring amounts payable by the Railways. A copy of this statement has also been served on the counsel for Respondent 1 & 2.

7 We have heard the ~~counsel~~. The counsel for Respondents 1 & 2 have no objection to disburse the pension in accordance with this settlement, in case it is so directed by this Bench.

8 We notice that the applicant as well as the third ^{are} ~~and~~ old ³ respondent, ~~both~~ ladies aged above 70 and we are of the view that this is a matter which should not be prolonged in the interest of justice. Accordingly, we find that the interest of justice would be served by accepting the settlement reached between the applicant and the third respondent and to give effect to it. In the circumstances, without deciding ~~the~~ issue as to who was the legal wife of the deceased, ^{- which} we find it unnecessary to decide in view of these developments. ~~We direct~~ Respondent 1 & 2 to accept the settlement reached out of Court by the applicant

and third respondent and to give effect to this and for this purpose the following directions are given:

(i) In so far as the arrears which are payable as family pension are concerned, they shall be paid directly to the applicant and to the third respondent in equal amounts i.e., 50% each. Such arrears should be paid as computed at the end of April, 1990.

(ii) As far as the current payments are concerned i.e. the payment due for the month of May, 1990 and thereafter the payment shall be paid at rate of 50% each directly to the applicant and to the third respondent.

(iii) It is made clear that on the death of either party, the right to receive the pension will lapse and will not ^{revert or} accrue to the other survivor, to see

9 The respondents are directed that the arrears ~~are XXXX~~ paid to the parties on or before 15th May, that 1990 and orders in respect of the pension payable to each of them i.e., 50% shall also be communicated to them before that date.

10 The application is disposed of with the above directions.

(N Dharmadan)
Judicial Member

(NV Krishnan)
Administrative Member

6-4-90