

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.10 OF 2004.

Tuesday, the 18th day of January, 2005.

CORAM :

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

T.M.Santha Bai

Wife of Late A.Natarajan

(Retired TTE/Southern Railway/Palghat)

Residing at : No X-40, Kovai Pudur

Coimbatore - 42

: Applicant

(By Advocate Shri T.C.Govindaswamy)

Vs.

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

2. The Divisional Railway Manager,
Southern Railway,
Palghat Divison,
Palghat

3. The Divisional Personnel Officer,
Southern Railway,
Palghat Division,
Palghat.

: Respondents

(By Advocate Ms.P.K.Nandini)

The application having been heard on 18.01.2005, the Tribunal
on the same day delivered the following :

ORDER

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

The applicant claiming to be the widow of A. Natarajan, who voluntarily retired from the service of Southern Railway on 31.03.1983 and subsequently died on 08.08.1998 has filed this application aggrieved by rejection of her claim for family pension by the impugned order Annexure A-6 dated 18.01.2002 issued by the 3rd respondent on the ground that while the applicant had maintained that she had married Natarajan in 1969, Kamalavani the first wife of late Natarajan died only on 10.11.1973 and therefore the applicant had no status of a legal widow to be entitled for family pension.

2. The material allegation in the application are briefly stated as follows:-

A.Natarajan who retired while working as Travelling Ticket Examiner after the death of his wife Kamalaveni in the early part of 1969 married the applicant in that year. A daughter was also born in that wedlock, on account of some difference of opinion between the applicant and late Natarajan, they were living separate and she was in impecunious circumstances on her request as wife of Natarajan being recommended by the Minister of Railways, she was given temporary appointment as Water Carrier during January 1985 regularised as Sweeper-cum-Porter and she retired from service without pension on 31.01.1994. When Natarajan died in the year 1998 the applicant claimed family pension and produced Annexure A-3 certificate which showed the names of the children of Natarajan in the first wife, herself and her daughter as legal heirs. In spite of the production of the legal certificate issued by the competent authority

contd.. 3/-

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the 3rd respondent has unjustifiably denied the applicant of the rightful family pension on the incorrect allegation that Kamalaveni died on 10.01.1973 without any legal heirs. The applicant therefore seek to set aside the impugned order Annexure A-6 for a declaration that she is entitled for grant of family pension with arrears from 09.08.1998 with 12 % interest thereon and for a direction to the respondent to grant consequential benefits to her.

3. The respondents in their first reply statement contended that Natarajan at the time of his voluntary retirement produced Annexure R 1 certificate issued by the Commissioner of Madurai Corporation, that his wife Kamalavani died on 10.11.1973 and indicated "Nil" against name of wife that, therefore family pension was not authorised, that the applicant's marriage, if any, with Natarajan during the life time of Kamalavani being illegal the applicant is not entitled to any family pension, that it was not known whether the Tahsildar issued the heirship certificate after due verification and that enquiry held revealed that the applicant was not legally wedded wife of Natarajan the impugned order is perfectly justified.

4. The applicant in her rejoinder contended that the contention of the respondents that Natarajan at the time of his voluntary retirement produced Annexure R-1 certificate is absolutely false because Annexure R-1 is seen to have been issued only on 03.08.1999 while Natarajan undisputedly died on 08.08.1998. It is also contended that Annexure R-1 is not a death certificate and it is evident therefrom that there was no entry in any register and what was stated therein is, was only on the strength of what was stated by Shanthi Krishna.

5. The respondents in their additional reply statement have stated that Annexure R-1 certificate was produced by the applicant alongwith Annexure R-4. In the additional reply statement the respondents have come out with another inconsistent case that Annexure R-1 was produced by the applicant herself alongwith Annexure R-4. As rightly pointed out by the learned counsel of the applicant, to which no explanation at all could be offered by the respondents counsel. This contention of the respondents also is totally false and contankerous because Annexure R-1, which was said to have been issued on 03.08.1999 could not have been produced alongwith Annexure R-4 dated 19.02.1999. We are astonished to find that two successive Senior Divisional Personnel Officers have filed the reply statement and additional reply statement raising demonstratedly untenable contentions to defeat the lawful claim of a poor widow for family pension. Since the Tahsildar Palakkad, the competent authority has issued Annexure A-3 heirship certificate which disclose the names of the legal heirs of Natarajan including the name of the applicant as wife of late Natarajan the action on the part of respondents in not accepting that certificate as legal proof of status of wife of Natarajan and attempting to stall the legal claim is contankerous, illegal and unjust.

6. In the result, in the conspectus of facts and circumstances, I set aside the impugned order Annexure A-6 declaring that the applicant being the widow of late Natarajan is entitled to family pension. I direct the respondents to grant the applicant the due family pension with effect from 09.08.1998 and interest on the arrears at 6% per annum till the date of payment. This direction shall be carried out

within two months from the date of receipt of a copy of this order.

No order as to costs.

Dated, the 18th January, 2005.



A.V. HARDASAN
VICE CHAIRMAN

VS