

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 174 of 1994

Friday this the 23rd day of September, 1994

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

Khathoon Beevi,
W/o late M.Sherkhan Sahib,
Ex ASM/ASD, Staff No.10710,
Cherayil Veedu, Muslim Street,
Kottarakkara PO, Quilon Dist. Applicant

(By Advocate Mr. K.M. Anthru/R.Santhoshkumar)

Vs.

1. Union of India through the
General Manager,
Southern Railway,
Madras.3.
2. The Divisional Personnel Officer,
Southern Railway,
Madurai. ...Respondents

(By Advocate Mr. P.A.Mohammed)

O R D E R

Applicant, widow of a former Railway employee,
claims family pension, as also arrears of pension said
to be due to her late husband.

2. The deceased employee joined the service of
the Railways some time in 1945 and was declared medically
unfit on 2.1.76. Later he died.

3. Pension would be admissible only if an option
had been exercised as contemplated in A2, between 1.4.69
and 14.7.72. According to applicant her husband had
exercised an option and she produced A.10 postal receipt
to support the contention. A copy of the letter is not
produced. But para 5 of the reply affidavit, contains

.....2

a reference to two letters dated 2.9.71 and 16.11.71 purported to be written by the deceased employee, but without his signature. One of the carbon copies relates to option for pension. From the absence of a signature on a carbon copy (not original) it cannot be said that the original was not sent or signed. The date of the letter (admittedly received by the Railways) and A.10 of the same date read together, convey an impression that applicant's husband had exercised an option and sent it under cover of the receipt A10. Respondents thought otherwise. This is a question of fact, and ordinarily a finding of fact is not disturbed. But ends of justice justify a finding that applicant's husband had exercised an option, as contemplated in A2, without being guilty of misplaced judicial sympathy against which the Supreme Court administered caution in Kerala Solvent Extractions Limited Vs. Unnikrishnan and another, 1994(1) KLJ 595.

4. I hold that applicant's husband had exercised the option. However, in the special circumstances while declining the prayer for arrears of pension and arrears of family pension, I direct respondents to pay family pension to applicant from the date of this application namely 28.1.1994. This will be in lieu of monthly exgratia payments.

5. Application is allowed as aforesaid. Parties will suffer their costs.

Dated 23rd September, 1994.

Chettur Sankaran Nair

CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

List of Annexures

1. Annexure 2: True copy of Letter No:E(NG)88 PNI-6 dt.2.1.1992 issued by the Railway Board.
2. Annexure-10: Photo copies of Representation receipts.