

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 201 OF 2012

Friday, this the 18th day of January, 2013

CORAM:

**HON'BLE Dr. K.B.S. RAJAN , JUDICIAL MEMBER
HON'BLE MS.K NOORJEHAN, ADMINISTRATIVE MEMBER**

P.K Devi
W/o.Late U Narayanan (Ex-Traffic Porter)
Southern Railway, Netravathy Railway Cabin
(Palakkad Division)
Residing at: Thiyyaikandi House
Kolathur P.O
Athou (via), Calicut District

- Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

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 - 678 002 - Respondents

(By Advocate Mr.Thomas Mathew Nellimoottil)

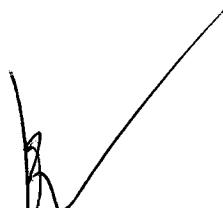
The application having been heard on 15.1.2013, the Tribunal on 18.01.13 delivered the following:

O R D E R

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

1. As early as on 12th March, 2007, an order had been passed in OA No. 156 of 2005 in which the following directions had been given vide Annexure A-1:-

"19. In view of the above, OA succeeds. Annexures A-4, A-6 and A-8 orders are hereby quashed and set aside. It is declared that the applicant is entitled to pension, in full, based on qualifying service he has rendered as calculated by the respondents vide para 4 of the counsel statement dated 01.03.2007 and also on the basis of his last pay drawn/last average ten months pay drawn as the case may



be. In so far as qualifying service is concerned, the respondents shall also reckon such service in accordance with law, especially the service during the period of temporary status. Respondents are therefore directed to work out full pension and retirement gratuity and also work out leave encashment admissible to the applicant and pay the arrears of such pension and quantum of leave encashment within a period of three months from the date of communication of a copy of this order."

2. The above order was challenged in WPC No. 23911 of 2007 and during the pendency of the same, the applicant to the OA having expired, the High Court closed the writ petition as having been abated. Order dated 24-1-2011 refers.
3. This OA has been filed by the present applicant who is the widow of the ^{husb} applicant in the aforesaid OA No. 156 of 2007/has prayed for the following:-

"8. (i) Direct the respondents to implement Annexure A-1 and to grant all the consequential benefits thereof;

(ii) Direct the respondents to grant interest on arrears of pension and other terminal benefits due as on the date of the order, calculated @ 12% per annum at least with effect from 21st June 2007 up to the date of full and final settlement of the same. The arrears of pension payable for the period from 21.03.2007 up to the date of demise late U.Narayanan may also be directed to be paid with interest calculated @ 12% per annum from the dates from which such arrears fell due, up to the date of full and final settlement of same;"

4. Respondents have contested the OA stating that the same is premature (Para 14 of the reply). They have also stated that the case for review of the closed WPC was being filed.

5. Counsel for the applicant submitted that the applicant in the other OA died during the pendency of the Original petition before the High Court and even after the closure of the WPC, more than 11 months had passed. The fact that the applicant's husband had expired during the pendency of the Writ petition is not denied. As such, the order of the Tribunal should be complied forthwith.



6. Counsel for the respondents submitted that the review petition has been filed which would decide the fate of the applicant in this OA.

7. Arguments were heard. When an order is passed by the Tribunal, implementation of the same could be avoided only when there is a stay in respect of pending writ petition challenging the said order. If the writ petition is allowed, the question of implementation does not arise. Here is a case where the Writ petition had been closed as early as in January, 2011 and the respondents chose to remain silent thereafter. It is after the present OA is filed that the respondents have chosen to move, belatedly, a review application for review of the order of January 2011. The applicant is the widow of the applicant in the earlier OA and the benefits accrued to the applicant in that OA would percolate to the applicant as a legal heir. The contention of the respondents that the application is premature is to be summarily rejected. Their contention that the disposal of the writ petition filed by them came to their knowledge only through this OA is again to be ignored as the applicant had caused a legal notice issued as early as on 11th September, 2011. In any event, it is their responsibility to keep a track of their own writ petition.

8. In view of the above, the OA is allowed and the respondents are directed to verify the records and work out the pensionary dues as well as family pension admissible to the applicant and process the same further and ensure that the dues are paid to the applicant within a period of three months. It is in their own interest that they process the case of the review petition before the High Court so that if there be any order recalling the order dated 24-01-2011 by the High Court, the same could be kept in view while implementing this order. No costs.

(Dated, the 18th day of January, 2013)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER
SV


(Dr. K.B.S. RAJAN)
JUDICIAL MEMBER