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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 247  
T. A. No.

1990

DATE OF DECISION 28.6.91

K. Devayani & others Applicant (s)

Mr. V. J. Kurian Vallamattam Advocate for the Applicant (s)

Versus

Sr. Divisional Personnel Respondent (s)  
Officer, Southern Rly, Palghat & others

Mr. M C. Cherian For R-1 Advocate for the Respondent (s)

CORAM: Mr. George Thomas for R-4  
Mr. N N Sugunapalan SCGSC for R-3

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

SHRI N DHARMADAN, JUDICIAL MEMBER

The question that arises for consideration in this case is whether the pensionary benefits due to a deceased Railway employee is to be disbursed to his nominee or to his legally wedded wife and children?

2. First applicant is the wife of late I. Raman, who was a railway employee. He retired as a Gangmate on 31.5.1972 and died on 13.7.1981. Applicants 2 and 3 are the minor children of the first applicant. At the request of the first applicant, the Accounts Officer of the Accountant General of Kerala by a communication Annexure A-2 dated 27.9.82 directed the Sub Treasury Officer Ottappalam to pay life time arrears and relief due to late I. Raman

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to the applicants. When the first applicant knew about the same, submitted Annexure A-3 for getting the pensionary benefits. Then the first respondent directed the applicant to furnish legal heirship certificate. Accordingly, the first applicant submitted Annexure A-5, legal heirship certificate from Tahasildar, Ottappalam, Annexure-6 extract of admission register from the Panchayat U.P. School, Paruthipara and Annexure-7 proceedings of the Sub Divisional Magistrate, Ottappalam in support of the claims. But the first respondent granted the family pension to the second respondent who claimed that she is the wife of late I. Raman. Later it was <sup>Kandya</sup> ~~learned~~ that the arrears of pension illegally granted <sup>to</sup> the second respondent was kept in deposit with the fourth respondent bank. Under these circumstances the first applicant sent Annexure-9 lawyer's notice to the Railway claiming the family pension due to late I. Raman with all arrears. The request of the first applicant was rejected by Annexure-A1, order stating that late I. Raman has already nominated the second respondent as his wife for granting the family pension at the time of his retirement. Accordingly, family pension has been sanctioned to her. This order is challenged by the applicants. There is also a prayer for a direction to the

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first respondent to pay the pensionary benefits with all arrears to them.

3. In the reply affidavit filed by the respondents the railway has taken the stand that though they have sanctioned the payment of life time arrears of pension of late I. Raman to the applicants, they were forced to revise the decision in the light of Ext. R-2 nomination, Ext.R-3 request, Ext. R-4 affidavit and Ext. R-5 legal heirs certificate produced by the second respondent and allow the second respondent to draw the family pension due ~~to be paid to the heirs of late I Raman.~~ It is under these circumstances that Annexure-A1, happened to be passed by the Railway.

4. Having heard the arguments of learned counsel on both sides, I am of the view that the disbursement of the pensionary benefit due to a deceased Railway servant will depend upon the provisions of Family Pension Scheme for Railway Employees 1964. Under the scheme the family includes wife and minor children of the deceased Government servant. The definition of family is quoted below

" Family for purposes of this scheme will include the following relatives of the Railway servant.

- (a) wife, in the case of a male railway servant;
- (b) husband, in the case of a female railway servant;
- (c) minor sons ; and
- (d) unmarried minor daughters.

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Children adopted legally before retirement will be covered in 'c' & 'd'."

There is no provision in the scheme for making a nomination by the Railway Servant and disbursing the pensionary benefits to such a nominee of the Government servant. This is supported by the recent decision of the Supreme Court reported in Violet Issac Vs. Union of India (1991 (1) KLT 579)

" The Family Pension Scheme under the Rules is designed to provide relief to the widow and children by way of compensation for the untimely death of the deceased employee. The Rules do not provide for any nomination with regard to family pension, instead the Rules designate the persons who are entitled to receive family pension. Thus no other person except those designated under the Rules are entitled to receive family pension. The Family Pension Scheme confers monetary benefit on the wife and children of the deceased Railway employee, but the employee has no title to it. The employee has no control over the family pension as he is not required to make any contribution to it. The family pension scheme is in the nature of a welfare scheme framed by the Railway Administration to provide relief to the widow and minor children of the deceased employee. Since, the Rules do not provide for nomination of any person by the deceased employee during his life time for the payment of family pension, he has no title to the same. Therefore, it does not form part of his estate enabling him to dispose of the same by testamentary disposition."

5. In the light of the aforesaid decision of the Supreme Court the impugned Annexure-A, order is unsustainable and it is liable to be set aside. Accordingly, I do so.

6. In the light of the factual controversy and the conflicting heirship certificates and other documents produced by both the applicants and the second respondent I am not in a position to grant the

other reliefs prayed for by the applicants at present without settling the issue and deciding the main question as to who is the legally wedded ~~genuine~~ <sup>4</sup> wife and children, who were depending on the income of the deceased I. Raman at the time of the death of late I. Raman. This requires a further enquiry by taking of evidence by an administrative authority.

7. Under these circumstances, I think it would be just and proper in the interest of justice to direct the first respondent to conduct a detailed enquiry after summoning the applicants and second respondent by giving notice to them and decide in the light of the evidence already produced in this <sup>and the evidence that may be collected in this enquiry, 4</sup> case, as to who is the legally wedded ~~genuine~~ wife of the late I. Raman depending on him for their livelihood and eligible to claim family pension with all arrears from the Railway. This shall be done by the first respondent within a period of 3 months from the date of receipt of the copy of the judgment. Till then the pensionary benefits due to late I. Raman shall be kept in deposit within fourth respondent bank. This application is disposed of as above. There will be no order as to costs.

  
(N DHARMADAN)  
JUDICIAL MEMBER