

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**O.A. NO.266 OF 2011**

Monday, this the 21<sup>st</sup> day of November, 2011

**CORAM:**

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

G Geetha  
Aged 47 years  
D/o.Late P.Gopalan Nair  
Residing at B2, Sasthapuri  
Kalpathi P.O  
Palakkad – 678 003

**Applicant**

(By Advocate – Mr.T.C G Swamy)

**Versus**

1. Union of India, represented by  
The General manager, Southern Railway  
H.Q Office, Park Town P.O  
Chennai - 3
2. Senior Divisional Personnel Officer  
Southern Railway  
Thiruchirapalli Division  
Thiruchirapalli
3. The Senior Divisional Finance Manager  
Southern Railway  
Thiruchirapalli Division  
Thiruchirapalli
4. G Radha  
D/o.P.Gopalan Nair  
Residing at B2, Sasthapuri  
Kalpathi P.O  
Palakkad – 678 003

**Respondents**

(By Advocate Mr.P Haridas (R 1-3))



The application having been heard on 15<sup>th</sup> November 2011, the Tribunal on 21.11.11 day delivered the following:

**ORDER**

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

1. The applicant's father retired as Ticket Collector in 1979. He passed away as a pensioner in 1994 and applicant's mother was in receipt of family pension till the date of her demise in November 2006. The mother of the applicant requested the respondents to include the name of the applicant in the list of family members entitled to family pension (Annexure A-1 communication dated 07.12.2005 refers). The second respondent responded to the same stating that family pension is sanctioned to daughter up to the age of 25 years or date of marriage whichever is earlier as per "extant" orders and that as such the request for grant of family pension to the applicant who was 41 years at that time could not be considered. The mother of the applicant passed away in November 2006, as already stated.
  
2. The Railway Board issued RBE 116/2007 (Annexure A-3) which provided for grant of family pension to unmarried daughters beyond 25 years of age at par with the widowed/divorced daughters, subject to fulfillment of other conditions specified in the Rules. The said order also contained that such family pension is payable in the order of the date of birth of such unmarried daughters etc and younger of them will not be eligible for family pension unless the next above her has become ineligible for grant of family pension. It has also been clarified that family pension to



unmarried/widowed/divorced daughters above the age of 25 years shall be payable only after the other eligible children below the age of 25 years have ceased to be eligible to receive family pension and that there is no disabled child to receive the family pension.

3. Initially on the strength of the aforesaid Railway Board Circular the elder sister of the applicant Smt.G Radha who was married to one Mr.Govindan submitted a representation stating that her husband had expired on 15.11.1998 and therefore the family pension be granted to her (Annexure A-5 refers). When the respondents demanded a copy of the death certificate of the said Smt.Radha's husband, vide Annexure A-6 the said Smt G Radha submitted a requisition to the Registrar & Medical officer of Health, Surat Municipal Corporation for issue of a death certificate. However, as no such entry could figure in the Register, the Medical Officer was unable to issue such a certificate, vide Annexure A-7. Smt.G Radha referred the same to the respondents and requested for grant of family pension though she could not, despite earnest efforts, secur the death certificate. She had however confirmed that there is no other eligible member in the family to claim family pension (Annexure A-8 refers). It was around the time that the applicant preferred request for family pension on the basis of Annexure A-3 order (Annexure A-9 refers). The applicant was asked to produce various documents including death certificates of the applicant's father, copy of the applicant's mother's PPO, legal heirship certificate, non-marriage certificate, income certificate etc(Annexure A-10 refers) and the same was replied to by Annexure A-11 and Annexure A-12. By Annexure A-13 sanction was

accorded to the applicant for family pension and certain pension papers were sent to her for further action (Annexure A-14 refers). All the papers were sent back duly filled in vide Annexure A-15. After other formalities have been fulfilled including details of bank account etc the applicant was expecting the family pension in her favour. However, by Annexure A-19, the respondents have stated that the applicant has a widowed elder sister Smt G.Radha and as such the case to be reviewed. The said Smt.G Radha give no objection certificate relinquishing her claim to the family pension and requested for the release of family pension in favour of the applicant (Annexure A-20 and annexed thereof refers). The applicant also submitted a representation vide Annexure A-21. However, no further action has been taken. Hence this O.A, praying for the following relief:-

- (i) Declare that the non-feasance on the part of the respondents to release the applicant's family pension as granted in Annexure A-14 is arbitrary, discriminatory, contrary to law and unconstitutional.
- (ii) Direct respondents 2 and 3 to forth with release the applicant's family pension as granted in Annexure A-14 with all consequential benefits arising therefrom, including arrears thereof.
- (iii) Direct the respondents to pay interest at the rate of 12% per annum on the family pension to be calculated from the dates arrears fell due month after month up to the date of full and final settlement of the same.

4. Respondents have contested the Original Application. They have justified that grant of family pension for the unmarried/widowed/divorced daughter shall be payable in the order of their date of birth and younger of them will not be eligible for family pension unless the next above her has become ineligible for grant of family pension. In the instant case Smt.G

Radha being elder to the applicant, the applicant's case cannot be considered. The applicant has filed her rejoinder in which vide Annexure A-22 clarification in regard to such a contingency has been given by the Railway Board. The said clarification reads as under:-

<i>S.No.</i>	<i>Issue raised</i>	<i>Clarification</i>
(i)	Whether a daughter who is divorced/attains widowhood at any age is eligible for family pension (e.g. At the age of 60, 70....)?	Yes; a widowed/divorced daughter shall be eligible for family pension irrespective of her age at the time of becoming widow/divorcee subject to fulfillment of certain conditions, including the income criterion, as stipulated in the relevant provisions of Railway Services (Pension) Rule, 1993 and the orders issued thereunder.
(ii)	Whether the divorced/widowed daughter is eligible for family pension even after the cessation of pension/family pension to the employee/widow/dependents (when all the members of the family cease to draw family pension and there is a gap of one or more years)	Yes; Divorced/widowed daughter will be eligible for family pension after the cessation of pension/family pension to the employee/widow. The orders shall, however, apply prospectively as and when such a contingency happens.

5. Counsel for the applicant submitted that the applicant is eligible under Annexure A-3 Railway Board letter and whatever little doubt respondents had relating to the little becoming eligible for family pension has been duly clarified vide clarification at Annexure A-22 extracted above.

6. Counsel for the respondents has not disputed the existence of the clarification given.

7. Arguments were heard and documents perused.

8. Grant of family pension to widowed daughter is subject to production of death certificate of the spouse which in the instant case of Smt.G Radha was not available. In addition Smt.G Radha had relinquished her claim to family pension by a duly sworn affidavit. Under such situation, there should be no impediment for the respondents to pay the family pension to the applicant. Their apprehension that to deal future the elder sister becomes eligible for family pension then it may lead to certain complications does not hold any water. The situation is to be viewed as on date and in view of the relinquishment of the claim by Smt.G Radha and no other elder sister being eligible for family pension, it is the applicant who is entitled to be paid the family pension. Accordingly this O.A is allowed. Respondents are directed to pass suitable orders and disburse the family pension to the applicant from the date she is entitled to the same (after the demise of her mother in 2006) and subject to other conditions contained in Annexure A-3 RBE letter. This drill shall be completed within three months from the date of communication of this order. No costs.

(Dated, this the 21<sup>st</sup> day of November, 2011.)



DR.K.B.S RAJAN  
JUDICIAL MEMBER

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