

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.334/2007

Dated the 28th day of February, 2008.

CORAM :

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

P.K.Sainaba
W/o.late K.P.Moidu,
Mundamuka Amsom,
Parthippara Desom,
Ottappalam Taluk

... Applicant

By Advocate Mr.Harisharma M

V/s

- 1 Union of India represented by
General Manager.
Southern Railway,
Head Quarters Office,
Park Town P.O., Chennai-3.
- 2 Senior Divisional Personnel Officer,
Southern Railway,
Palakkad Division, Palakkad
- 3 Senior Divisional Accounts Officer,
Southern Railway, Palakkad Division.
- 4 K.K.Zaibunnisa.
W/o.late K.P.Moidu,
Kuzhikkil House,
Mukkatta Nilambur R.S&P.O.,
Malappuram.

... Respondents

By Advocate Mr.K.M.Anthru (R 1-3)

The application having been heard on 28.2.2008 the Tribunal on the same day delivered the following :

✓

(ORDER)**Hon'ble Shri George Paracken, Judicial Member**

The applicant is aggrieved by the Annexure A-6 order of the Respondents dated 25.4.2006 denying her family pension on the ground that the family composition furnished by her husband, late Shri K.P.Moidu, did not contain her name. Rather, he had shown Smt.P.,Fathimabi as his only wife.

2 The facts in brief are that Shri P.K.Moidu, Ex-Fitter/Shoranur retired on 31.3.1989 and thereafter died on 26.2.1992. As the dependent of Mr.Moidu was entitled for Family Pension, the entire family pension as admissible under the rules was paid to his wife Smt.P.Fathimabi from 27.2.1992 and she had been drawing the same for quite some time. Meanwhile, Smt.K.K.Zaibunnisa claimed that she was the third wife of late Shri K.P.Moidu and demanded 1/3rd of the family pension as admissible under the rules. The respondents refused to pay the same on the ground that she has not been included in the family composition submitted by Shri K.P.Moidu. She has, therefore, approached this Tribunal vide OA No.1280 of 2000 making Smt.P.Fathimabi as the 3rd respondent and the present applicant Smt. P.K.Sainaba as the 4th respondent. This Tribunal considered the fact adjudication made by the respondents department itself that Smt.K.K.Zaibunnisa is the 3rd wife (applicant in OA 1280/2000), Smt.P.K.Sainaba, (applicant in this OA) is the 2nd wife and Smt.P.Fathimabi was the 1st wife of late Shri Moidu. The following was the order of the 2nd



respondent in this regard:-

"In the fact adjudication, it has come to light that you are the third wife and Smt. P.K.Sainaba, the 2nd wife and Smt.P. Fathimabi the 1st wife of the deceased employee."

3 In view of the above fact adjudication by the respondents themselves, this Tribunal disposed of the said OA vide order dated 17.4.2002 directing the respondents to grant the applicant therein (Smt.K.K.Zaibunnisa), 1/3rd share of the family pension due on account of the death of late K.P.Moidu. Though the applicant in the present OA was respondent in the aforesaid OA-1280/2000, she did not appear before this Tribunal nor before the 2nd respondent and stake her claim for the remaining 1/3rd family pension. Since there were only two claimants, the respondents paid family pension only to the 1st wife Smt.P.Fathimabi and the 3rd wife Smt.K.K.Zaibunnisa. This position continued till the death of Smt. Fathimabi on 6.12.2002. Thereafter, the Applicant sent the Annexure A-2 representation dated 12.12.2002 to the Respondents through her Advocate stating that the Respondents have not been paying her the 1/3rd family pension even after the order of this Tribunal in OA 1280/2000 dated 17.4.2002. In this OA also, she has prayed for 1/3rd family pension that she was entitled to get from 31.3.1989 till 6.12.2002 and one half family pension from 6.12.2002 and the consequential arrears emanating therefrom.

4 I have heard Advocate Mr.Harisharma M.for the Applicant and Advocate Mr.K.M.Anthru for the Respondents 1 to 3. In the light of the



order of this Tribunal in OA 1280/2000 dated 17.4.2002 and also in view of the fact adjudication done by the 2nd respondent, there is no further scope to say that the applicant is not a wife of late Shri Moidu. Therefore, the contention of the respondents made in Annexure A-6 order dated 25.4.2006 is not tenable. I, therefore, quash and set aside the same. Since there are no other claimants for the pension, other than the 3rd wife Smt.K.K.Zaibunnisa, after the death of the 1st wife Smt. P.Fathimabi from 6.12.2002, 50% of the Family Pension has to be given to the applicant. Since the 1st wife Smt.P.Fathimabi had drawn full Family Pension from 27.2.92 to 31.8.2002 and thereafter both herself and Smt.K.K.Zaibunnisa have been getting 1/3rd family pension each till 6.12.2000, the Applicant would infact be entitled to get 1/3rd family pension only w.e.f 1.9.2002. and 50% pension from 7.12.2002 onwards. Accordingly, I direct the respondents to pay 1/3rd family pension to the Applicant from 1.9.2002 to 6.12.2002 and 50% family pension thereafter subject to her fulfilling all the requisite formalities for getting the same as per rules. The applicant shall furnish all the requisite information within 30 days from the date of receipt of copy of this order and thereafter within two months, her pension shall be settled by respondents. With the aforesaid direction, this OA is allowed. There shall be no orders as to costs.


GEORGE PARACKEN
JUDICIAL MEMBER

abp