

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 412 of 2010

Friday....., this the.....^{8th} day of April, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Ms.K Noorjehan, Administrative Member

Thankamma Jacob
(Wife of P.C Jacob, Retd. CTI/TCR)
Kocholickal House
Kochukoickal P.O
Seethathodu
Pathanamthitta District **Applicant**

(By Advocate – Mr.M.P Varkey)

V e r s u s

1. Union of India represented by
 General Manager
 Southern Railway
 chennai – 600 003
2. Sr.Divisional Personnel Officer
 Southern Railway
 Trivandrum – 695 014
3. Sr.Divisional Finance Manager
 Southern Railway
 Trivandrum – 695 014
4. The Manager
 State Bank of Travancore
 VadasseriKara – 689 661

..... **Respondents**

(By Advocate – Mr.K.M Anthru for R1-3
Mr.P Ramakrishnan (R4)

This Original Application having been heard on 28.03.2011, the
Tribunal delivered the following on 08.04.2011

ORDER

By Hon'ble Ms.K Noorjehan, Administrative Member -

1. The applicant has filed this Original Application aggrieved by the denial of family pension to her as admissible under the Rules ever since the demise of her husband P.C Jacob on 01.06.1996. This is the third round of litigation.

2. The applicant's husband P.C Jacob had worked as Travelling Ticket Examiner from 1961 to 1976 in North Frontier Railway, before his transfer to Southern Railway. He retired as chief Travelling Inspector, Trichur on a pay of Rs.2000/- in scale Rs.1600-2660, on 31.07.1995. But he was granted a meagre pension of Rs.568/- only per month because his 19 years service in Southern Railway alone was counted as qualifying service. No reason was given for non reckoning of his 15 years service in North Frontier Railway. Aggrieved, P.C Jacob filed O.A 289/1996 before this Tribunal. During the pendency of the O.A, P.C Jacob passed away and was substituted by his legal representatives. As per the directions passed by this Hon'ble Tribunal in the said O.A, the 2nd respondent issued a letter No.V/P/628/III/118/95 dated 21.07.1997 (Annexure A-1), as per which the pension was revised. Aggrieved by the deficiency in leave salary and recovery of alleged excess payment of salary shown in A-1, the applicant filed O.A 1596/97 before this Tribunal. Consequently the applicant got Rs.80,606/- towards balance dues, interest, refund of excess recovery etc. credited to her account on 14.03.1997. But she did not get the revised

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P.P.O. As the applicant fell ill due to various ailments, she could not pursue the matter. She had no alternative other than accepting whatever pension the 4th respondent bank was paying.

3. The family pension granted from Jun 1996 to December 1998 was less than Rs.2500 per month and the disbursing bank (R4) did not consolidate and pay the revised pension consequent on implementation of 5th Central Pay Commission. Moreover the bank reduced her pension to less than Rs.3000 for 28 months. Hence she filled up the prescribed performa for revision of pension. Since there was no response yet another application dated 23.10.2007 was submitted for revision of pension. As she did not get any reply, her lawyer, on her behalf, send a reminder to the respondents. Meanwhile, the respondents invited applications for revision of family pension with effect from 01.01.2006 to effect the implementation of 6th CPC recommendation. She applied promptly vide Annexure A-3 and she received a revised PPO dated 04.10.2009 (Annexure A-4). However, all the inherent deficiencies of the original PPO 1995 recurred and her family pension from 01.01.96 to 31.12.2005 was not revised on the basis of her Annexure A-2 application. Therefore the applicant has filed the Original Application seeking the following reliefs:-

a) Set aside A-4 in so far as it does not show the correct qualifying service, pay and grade of the applicant's husband and correct family pension of the applicant from 01.01.2006 and; direct the respondents 2&3 to issue a correct PPO in place of A-4

b) Declare that the applicant is entitled to revision of 40% and 60% of pension arrears for the period from 01.01.2006 and ; direct the respondents accordingly.

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c) Declare that the applicant is entitled to the enhanced family pension of Rs.2911 plus dearness relief from 2.6.1996 to 3.7.2002; and Rs.1650 + dearness relief till 31.03.2004 and direct the respondents 2 and 3 to issue revised PPO accordingly in response to A-2.

d) Declare that the applicant is entitled to a family pension of Rs.2475 plus dearness relief from 01.04.2004 to 31.12.2005 and; direct the respondents accordingly.

e) Direct the respondents to pay arrears of pension accruing from the reliefs at Sub paras © & (d) above, with interest from the due dates.

4. Respondents submitted that the ex-employee joined Palghat Division on 21.05.1976 on transfer from Northeast Frontier Railway. Since the latter did not send his service book when the pension was processed, only his 19 years of qualifying service was taken into account. However, in compliance with the order of this Tribunal in O.A 289/96 his past service in Northeast Frontier Railway was also reckoned towards qualifying service and Annexure A-1 PPO issued. The leave salary amounting to Rs.29,606/- for 193 days of leave at the credit of ex-railway employee was also sanctioned as per Annexure A-1. There was some unavoidable delay as the applicant addressed R3, the Senior Divisional Finance Manager, Trivandrum Division and not Senior Divisional Personnel Officer, Trivandrum Division. Therefore, the revision of her family pension consequent on 5th CPC recommendations got delayed. Now on receipt of her application for revision of pension as per 6th CPC recommendations a fresh PPO (Annexure A-4) is issued. The applicant's family pension is now fixed as Rs.1531+applicable DR with effect from 02.06.1996 and Rs.4050 + DR with effect from 01.01.2006 (Annexure R-1).



5. The applicant has filed rejoinder stating that refixation of pension for pre 1996 pensioners was done by the respondents for applicants in O.A 636/2004 and O.A 461/2008 and the same Annexure A-2 pension application form was used by the applicant.

6. Respondents filed additional reply statement producing R-2, the revised pension payment calculated from 01.01.1996 to 01.01.2006.

7. The State Bank of Travancore, the pension disbursing bank R4 filed an affidavit and produced R-4(d) showing the details of payments effected to her from 1997 to January 2011. They submitted that they have disbursed her pension as per the authority received from the third respondent. However, it is stated that the 4th respondent did not receive a copy of Annexure A-1 PPO issued by the respondents on 2.07.1997.

8. Heard the counsel on both sides and perused the pleadings and documents.

9. Annexure R-2 shows the revision of pension effected from 01.01.1996 to 01.01.2006. While the applicant has no dispute about the superannuation pension fixed for her late husband from 01.01.1996 to 01.06.1996 and family pension from 01.01.2006, she contends that the amount of enhanced and ordinary family pension fixed at Serial No.2 and 3 of Annexure R-2 are not correct. She is entitled to enhanced family pension of Rs.2911 + DR

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from 2.6.96 to 3.7.2002 taking into account the ex-employee's revised pension fixation from 01.01.1996. Regarding the ordinary family pension payable from 01.04.2004 to 31.12.2005 she is entitled for Rs.1531 + relief as 30% of the basic emoluments in the pay scale of Rs.1660-2600 with the 5th CPC replacement scale of Rs.5500-9000. The respondents have submitted in the reply statement that his 5th CPC replacement scale is only Rs.5000-8000 and not Rs.5500-9000. The applicant has produced Annexure A-7 Railway Services (Revised Pay) Rules 1997. According to which the late employee, the applicant's husband, who was a Travelling Ticket Inspector was granted a replacement scale of Rs.5500-175-9000 and therefore by taking 30% of the basic pay her pension should have been fixed as Rs.2475 from 01.04.2004 to 31.12.2005.

10. The learned counsel for the applicant is able to establish a case for refixation of her enhanced family pension and ordinary family pension as he brought to our notice all the supporting documents. In this view of the matter, the Original Application succeeds. The respondents are directed to consider her representation and fix the family pension as shown below and pay the arrears.

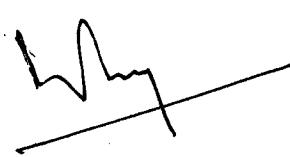
Enhanced family pension -	Rs.2911+DR from 02.06.1996 to 03.07.2002
Ordinary family pension -	Rs.1650 + DR till 31.03.2004
Ordinary family pension -	Rs.2475 + DR from 01.04.2004 to 31.12.2005

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11. In addition she will be entitled to 40% and 60% of pension arrears consequent on implementation of 6th CPC if the payment is not effected so far.

(Dated this the8th..... day of April, 2011)


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER


(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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