

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 414/06

Thursday this the 15th day of February, 2007

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

- 1 K. Chella, aged 70 years
W/o (late) Thankappan K
Kannode House, Kanjikkode 678261.
- 2 V. Vally, 57 years
W/o late Chamay V
Kannode House,
Kanjikode PO, Pakakkad.
- 3 Smt. P. Kamalakshmi Amma,
57 years, W/o late A. Narayanan Nair,
Krishna Bhavan, Melepuram,
Olavakkot, Palakkad 678002.
- 4 Smt. A. Girija, 44 years
W/o late M. Balasubramanian
Railway Quarters No. 637/C
Old Railway Colony,
Olavakkot, 678002.Applicants

(By Advocate Mr. M. H. Hanil Kumar)

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- 1 Union of India, represented by the
Secretary, Ministry of Personnel, Public
Grievances and Pensions, Department of
Pension & Pensioners Welfare,
Third Floor, Lok Nayak Bhavan,
Khan Market, New Delhi. 110 003.
- 2 The Secretary,
Railway Board,
Rail Bhavan,
Rafi Marg, New Delhi.
- 3 The Senior Divisional Personnel Officer,
Palghat Division, Southern Railway,
Palakkad.

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4 The Senior Divisional Finance Manager,
Palghat Division,
Southern Railway,
Palakkad. ...Respondents

(By Advocate Ms. P.K.Nandini (For R.2 to 4)
Advocate Mr.T.P.M Ibrahim Khan,SCGSC for R.1)

The application having been finally heard on 6.2.2007 the Tribunal on 15.2.2007 delivered the following:

ORDER

This is a joint application by four family pensioners who are widows of the former Railway Servants who died while in service on different dates. On the acceptance of the recommendations of the 5th Central Pay Commission, Government of India raised the minimum basic family pension of Rs. 1500/- to Rs. 2500/- w.e.f 1.1.96. The Commission had also recommended certain special benefits in the case of those employees died while in service or suffered disability during their service. For determining the compensation payable for death or disability caused under different circumstances the cases were broadly categorized under 5 distinct heads. One such category is "Death or disability due to accidents in the performance of duties". Some examples given in the said O.M are accidents occurred while travelling on duty in government vehicles or public transport, a journey on duty is performed by service aircraft, mishaps at sea, electrocution while on duty, etc. In such cases, the family pension in respect of deceased government servants holding technical posts was raised to 60% of the basic pay subject to a minimum of Rs. 2500/-. The Annexure A1(ii) Office Memorandum dated 3.2.2000 was issued by the Government of India, Department of Pension and Pensioners' Welfare. The Railway Board vide Annexure AI letter dated 8.3.2000 accepted the aforesaid decisions of the Government of India mutatis mutandis with

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regard to the Railway service. Accordingly, the applicants herein were granted the enhanced basic family pension of Rs. 2500/- per month from 1.1.96 and they have also been paid the arrears on account of the said enhancement.

2 Later on, the Respondents sought to reduce/recover the aforesaid enhanced basic family pension and arrears from the applicants vide the Annexure A6 series of notices dated 15.5.2006 issued to the applicants stating that the benefit of extra ordinary family pension can be extended only to those who are not covered under Workman Compensation Act, 1923 but in their cases, the settlements were made duly paying the compensation under Workman Compensation Act, 1923 they were not eligible for the extraordinary Family Pension which has been sanctioned to them. The applicants were, therefore, directed to refund the arrears in lump sum or in the alternative to recover the same from the relief being paid to them from the month of May/June, 2006 onwards.

3 When the case was taken up for arguments, both counsels have agreed that the very same issue was decided by a coordinate Bench of this Tribunal in the case in OA 106/05 and connected cases on 11.1.2007. The applicants in those O.As and the present OA are similarly placed in as much as all of them were widows of the Railway servants who died while on duty and were the recipients of compensation under the Workman Compensation Act, 1923. Relying upon the Apex Court's judgment in the case of S.K.Mastan Bee V. G.M. South Central Rly., (2003) 1 SCC 184 the coordinate Bench of this Tribunal allowed those O.As and quashed and set aside the impugned orders for withdrawal of the enhanced family pension and recovery of the arrears already paid.

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4 In the above facts ad circumstances of the case, I have no hesitation to allow this OA. Hence the OA is allowed declaring that the applicants herein are entitled to the modified quantum of family pension already sanctioned to them and are not liable for any recovery as ordered by the Respondents. The respondents shall continue to pay the enhanced family pension to the applicants. In the above facts and circumstances, there shall be no order as to costs.

Dated this the 15th day of February, 2007


GEORGE PARACKEN
JUDICIAL MEMBER

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