

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 77/2009

This the 14th day of May, 2010

Hon'ble Dr. A.K. Mishra, Member(A)

Smt. Gulab Devi, Aged about 56 years, Widow of late Chhotey Lal, R/o 347/147 Bairagi Tola, Old Tikait Ganj, Lucknow.

.....Applicant

By Advocate: Sri Sanjay Srivastava.

Versus

1. Union of India through General Manager, Baroda House, New Delhi.
2. Senior Personnel Officer, Northern Railway, Boroda House, New Delhi.
3. Deputy Chief Mechanical Engineer (W), Carriage & Wagon Workshop, Alambagh, Lucknow.

.....Respondents

By Advocate: Sri Arvind Kumar.

ORDER

The applicant, who is the widow of a deceased railway employee, has challenged the order of respondent no.3 in which representation for grant of family pension was rejected.

2. The husband of the applicant, originally was employed on 10.11.1964 in the Indian Air Force, from which he was discharged on 13.11.1985. He was re-employed by the Railways on 21.1.1992 as Fitter Gr.II. He died on 19.5.2002 while in service. The applicant had earlier filed O.A. no. 180 of 2005 and in compliance to the directions of this Tribunal, the competent authority of Air Force sanctioned family pension to the applicant. This was on the strength of option given by the deceased employee for pension from military service.
3. At the time of hearing, the learned counsel for the applicant submits that amended Rule 54 sub rule 13(b) of CCS Pension Rules entitles the applicant for getting family pension from two different

sources and the Ministry of Defence had clarified in the G.O. issued on 28.8.2001 that this rule will be applicable mutatis mutandis to the personnel of Air Force; therefore, the applicant was entitled to get a separate pension from civilian authority, in this case, the Railways.

4. The learned counsel for the respondents placed before me the provisions of Rule 75 (18) in respect of family pension scheme meant for railway servant. The relevant extracts are given below:-

"75. Family Pension Scheme for Railway Servant, 1964:-

(18) Family pension admissible under this Rule shall not be granted to a person who is already in receipt of family pension or is eligible, therefore, under any other rule, Rules of the Central Government or a State Government of a public sector undertaking; autonomous body or local fund under the Central or State Government.

Provided that a person who is otherwise eligible for family pension under this Rule, may opt to receive family pension under this Rule, if he forgoes family pension admissible from any other source."

The family pension Rule meant for Railway employees makes it clear that no pension would be admissible to a person who is already in receipt of family pension under any other rule/rules of Central Government. He further submits that CCS Pension Rules are not applicable to Railway employees. In view of the statutory provisions governing family pension for Railway employees, the impugned order rejecting the claim of the applicant was fully justified. It was also submitted on behalf of the respondents that the present claim of the applicant was made earlier in O.A. no. 180 of 2005 and since the issue had already been decided in O.A. no. 180 of 2005, the O.A. under consideration is barred by the law of res-judicata.

5. In view of categorical provisions of statutory rule with regard to family pension for Railway servants I find that the present Application for grant of family pension from Railways cannot be sustained as the applicant is in receipt of family pension from Indian Air Force.

6. In the circumstances, this Application is dismissed as devoid of merits. No costs.


 (Dr. A.K. Mishra)
 Member-A