

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

Date of order:

ORIGINAL APPLICATION No. 297 of 1990

Gyanendra Bahadur Srivastava

Applicant

versus

Union of India through General Manager
N. Railway, Baroda House, New Delhi
and others

Respondents.

Shri Vinay Shankar, Advocate
Shri A.K. Chaturvedi, Advocate

for Applicant
for respondents.

CORAM

HON. MR. S.N. PRASAD, JUDICIAL MEMBER.

The applicant has approached this Tribunal for directing the respondents to make payment of family pension to the applicant with 20% pendentelite and future interest.

2. Smt. Kishore Devi wife of Jitendra Bahadur had filed this O.A., but during the pendency of this O.A., she died and in her place the present applicant Shri Gyanendra Bahadur Srivastava has been substituted.

3. Succinctly, the facts of this case, inter alia, are that the deceased Jitendra Bahadur, husband of the aforesaid Smt. Kishore Devi, and the father of the present applicant Gyanendra Bahadur Srivastava, was Clerk in the office of Chief Mechanical Engineer, Carriage and Wagon Shop, N. Railway, Lucknow, who died on 12.11.62 and after his death the aforesaid widow Smt. Kishore Devi applied for ex-gratia payment, and she was informed that since her husband had opted for pension and was treated as pension optee staff, therefore, the question for payment of ex-gratia does not arise to her.

4. The main grievance of the applicant appears to be that since the aforesaid Jitendra Bahadur died on 12.11.62 during service

period, and as such the aforesaid Smt. Kishore Devi was entitled for ex-gratia payment; and it has further been stated that after having submitted all the necessary forms for grant of family pension by the applicant (aforesaid Smt. Kishori Devi) to the respondent No. 3, there is no justification in not sanctioning the family pension to her; and after having issued ^{Ply. Board's letter} ~~an~~ dated 26.7.85 ^{Annexure} ~~by~~ ^{which goes} by the respondents in favour of the aforesaid Smt. Kishori Devi, there is no legal hurdle in the way of Smt. Kishori Devi ^{Applicant} getting pension and ex-gratia payment, but the respondents have denied the same ^{and} despite her sincere efforts when nothing materialised, this O.A. has been filed.

5. In the Counter reply filed by the respondents, it has been contended, inter alia, that the father of the applicant expired on 12.11.1962 and thereafter all the amounts due and admissible at that time, were paid to the family of the deceased employee, and the mother of the applicant for the first time in the year 1988, claimed for payment of Ex-Gratia payment with effect from 1.1.1986 keeping in view the Department of Pension and Pensionary Welfare No. 4/1/87-P&PN(PIC) dated 13th June, 1988 and the General Manager (Personnel), N. Railway Printed Serial No. 9362; and the case was processed and the Ex-gratia payment was made with effect from 1.1.1986 at the rate of Rs 150/- + Dearness allowance per month, through Sanction order dated 27th April 1989 and accordingly a letter was also sent to the Manager, Allahabad Bank, Hazratganj, Lucknow for arranging for payment of Ex-gratia along with arrears through ^{Branch} Alambagh, Lucknow of Allahabad Bank, through letter dated 29th April, 1989 (vide Annexures C-1 and C-2 to the C.A.). It has further been contended that the ^{Railway} family Pension Scheme, 1964, was enforced with effect from 1.1.1984 much after the death of the father of the applicant. However, later on the Railway Family Pension Scheme 1964 was also extended to the families of those Railway servants who were/are borne on the Pensionable Establishment and are not presently covered by the Scheme, 1964 i.e. the families of those Railway employees who ^{and who were alive on 31.12.63} retired/died before 31st December, 1963 but only for those who have adopted out of the Family Pension Scheme 1964 with effect

from 22nd September, 1977 and the question of payment of Family pension the mother of the Applicant was under consideration and in the mean time Ex-Gratia payment had been made to the mother of the applicant i.e. the earlier applicant in the O.A. who expired on 15.2.1992. It has further been stated that the respondents requested the family of the deceased employee on 11th and 13th August 1992 to furnish the list of family members who are the legal heirs of the deceased employee and of deceased former applicant Smt. Kishori Devi and the Death Certificate of said Smt. Kishori Devi alongwith succession certificate from the competent Court of Law for payment of Life Time Arrears and Family Pension payable to the mother of the applicant w.e.f. 1st Jan. 1986 through the Alambagh Branch of Allahabad Bank. But the family of the deceased employee failed to submit the same and thereafter the letter dated 4.1.94 (vide Annexure C-3) was also sent for submitting the above papers, but that letter also proved ineffective and as much the matters involved in this case could not be finalised as the above papers are quite essential for effective decision in the matter.

6. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

7. This is important to note that after the death of the former applicant Smt. Kishori Devi the present applicant Shri Gyanendra Bahadur Srivastava is the substitution application dated 24.4.92 ^{submitted by him} ~~filed by him~~ he disclosed himself to be the sole legal heir and representative of the deceased being her son. But from the perusal of the letter dated 4.1.94 (Annexure C-3

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to the counter reply of the respondents) it appears that the aforesaid Shri Gyanendra Bahadur ~~Bhaskar~~ Srivastava is not the only and sole legal heir of the deceased employee and the deceased Smt. Kishori Devi, but there are other sons and one daughter also who are the legal heirs of the aforesaid deceased employee and deceased Smt. Kishori Devi besides the aforesaid Gyanendra Bahadur Srivastava.

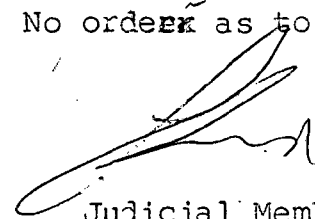
8. This is also important to point-out that from the perusal of para 2 to 7 of Counter reply by the respondents and Annexure C-3 to the counter reply it transpires that the respondents are ready to pay the amount of family Pension/ Ex-gratia-payment whatever are found due as per rules after adjusting the payment already ^{made} to the said Smt. Kishori Devi by way of Ex-gratia payment.

9. Thus, after considering all the facts and circumstances of the case and all aspects of the matter I find it expedient that the ends of justice would be met if the applicant is directed to furnish all the details and papers including the succession certificate from the competent court of law to the Deputy Chief Mechanical Engineer, Carriage & Wagon ~~workshops~~, Northern Railway, Alambagh, Lucknow (who is respondent No. 3 in this case) as early as possible and the ~~respondent~~ ^{family} respondent No. 3 to make payment of ~~Family~~ Pension to the Legal heirs of deceased employee and of

~~deceased Smt. Kishori Devi~~

in accordance with ~~law~~ and deceased Smt. Kishori Devi/as per rules within a period of 3 months from the date of the receipt of ~~this~~ papers as specified in the letter dated 4.1.94 (Annexure C-3 to the counter reply ~~of~~ the respondents); and I order accordingly.

10- The application of the applicant is disposed of as above . No order~~ex~~ as to costs.



Judicial Member

2.5.94

Girish/-

Lucknow; Dated 2 /5/94