

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Original Application No: **533/2007.**
This, the 8th day of August 2008.

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

Syed Asmat Ali (Handicapped-Mentally Retarded)
Aged about 38 years, unmarried,
Son of Late Hashmat Ali Ex Guard N.E. Railway Gonda,
R/o 53 Rakabganj, P.O. Gonda City
Distt Gonda through his elder Brother Ayed Azmat Ali
R/o 53 Rakabganj Gonda, Distt gonad U.P.

Applicant.

By Advocate Sri M.A. Siddiqui.

Versus

1. The Union of India through
The General Manager,
North Eastern Railway, Gorakhpur.
2. The D.R.M., N.E. Railway,
Ashok, Marg Lucknow.
3. The Senior D.P.O.
N.E. Railway, Ashok Marg Lucknow.
4. The Senior Divisional Accounts and Finance Manager
D.R.M. Office N.E. Railway,
Ashok Marg Lucknow.

Respondents.

By Advocate Sri C.B. Verma.

Order

By Dr. A. K. Mishra, Member (Administrative)

The application has been made with a prayer for issuing a direction to the respondents for grant of life-long family pension in favour of the applicant who is mentally retarded and unable to make an independent living on his own.

2. Brief facts of the case as are under: -

The applicant's father, late Hashmat Ali, was an employee of North Eastern Railway. After retirement from his service on 30.6.1977, he was getting regular pension till his death. Subsequently, the applicant's mother, widow of late Hashmat Ali, was granted family pension as per

rules up to her death on 4.9.2001. The applicant being a mentally retarded person became dependant on his elder brother after the death of his parents. His elder brother, Syed Azmat Ali, has been representing before the Railway Administration since 2001 for grant of family pension in favour of the applicant as per Railway Services (Pension) Rule 1993. Sub Rule 6 of Rule 75 of the aforesaid rules says that if the son or daughter of a railway servant is suffering from any disorder or disability of mind, or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 25 years, the family pension shall be payable to such a son or daughter for life subject to a number of conditions, one of which is that there should be a certificate obtained from a medical officer not below the rank of a Divisional Medical Officer setting out, as far as possible, the exact level of mental or physical disability condition of the person.

3. The representation did not receive consideration, as there was no such certificate from a competent medical authority in respect of the mental disability of the applicant. Further, neither at the time of retirement, nor before the death of any of his parents, the fact that he was suffering from such a disability had ever been intimated to the authorities. As a matter of fact, the name of the applicant did not find place as a legal heir of the deceased railway employee in any of the service records. On those grounds, his applications were turned down.

4. Subsequently, the applicant obtained a certificate from the District authority, Gonda to the effect that he was one of the sons of late Hashmat Ali. Additionally, he got a certificate from the Assistant Professor, Department of Psychiatry, K.G.M.U., Lucknow to the effect that he was mentally disabled up to 65% (Annexure-11). Armed with these certificates, he again represented his case before the respondents, but without any favorable response. Hence this application.

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5. The counsel for the respondents brought to my notice, the provisions contained in Explanation (1) of Sub Rule 6 of Rule 75 of the aforesaid Rules. Explanation (1) is extracted below: -

" Only that disability which manifests itself before the retirement or death of the railway servant while in service, shall be taken into account for the purpose of grant of family pension under this sub rule. "

In other words, disability should have manifested before the retirement of the Railway Employee or in case, he dies while in service before his death. This proviso precludes the possibility of entertaining any such claim subsequent to the retirement or death of a Railway Employee, as the case may be. Under the circumstances, the representation of the applicant could not be granted by the respondents.

6. Since the provisions of the rules are very clear, there is hardly any scope for interference in this matter. The name of the applicant never found place in the service records of his father late Hashmat Ali, let alone reporting any fact concerning his disability to the authorities before his father's retirement. Since there is no intimation about his disability prior to the retirement of his father, according to rules, he is not eligible for the family pension.

7. As a result, this application is dismissed as devoid of any merit. No costs.


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