

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

**Original Application No.357/2010
This the 25th Day of March 2011**

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Kumari Sushila aged about 50 years, D/o late Shri Ram Achchhaibar Tiwari, R/o Village Sugsawa, Post Asidha, Vikas Khand Rupaideeh, District Gonda U.P. Corresponding address, Post Tulsipur, District Gonda.

...Applicant.

By Advocate: Sri R.K. Yadav.

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
 2. Divisional Railway Manager (D.R.M.), North Eastern Railway, Lucknow.
 3. Mandal Karmik Adhikari, Lucknow N.E. Railway.
- Respondents.

By Advocate: Sri C.B. Verma.

ORDER (Dictated in open Court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

This O.A. has been filed seeking family pension in favour of the applicant, who claims herself to be unmarried daughter of Late Ram Achchhaibar Tiwari, who was working as TTE and retired on 31.07.1986. It is said that Sri Tiwari expired on 29.03.2007. The mother of the applicant had already died on 12.04.1976. It is further said that Sri Tiwari had two sons and two daughters. Both the sons namely Rajendra Kumar and Raj Kumar are married and they are living with their families. One daughter Smt. Kiran aged about 53 is already married. The applicant claims herself daughter of the deceased employee and she is aged about 50 years. It is said that she represented to the respondents for family pension in her favour but the same was rejected vide impugned order dated 03.09.2008 (Annexure-7). Hence this OA.

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2. From the other side a preliminary objection has been filed saying that the OA is not maintainable because the applicant has no locus. It is further said that admittedly the applicant is aged about 50 years. She has been making claim since 2008 at that time she was 48 years of age. She is not suffering from, any disorder or disability of mind or is physically crippled or disabled. According to Rule-6 of the Family Pension Scheme for Railway Servants, 1964 the family pension is payable in case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier. It is said that the applicant has already attained 50 years of age and therefore she is not entitled for family pension.

3. I have heard the arguments from both the sides and perused the material on record.

4. The aforesaid Family Pension Scheme for Railway Servants, 1964 is as under:-

"The period for which family is payable shall be as follows:

(i). in the case of a widow or widower, up to the date of death or remarriage, whichever is earlier.

(ii). in the case of a son, until he attains the age of twenty five years, and

(iii). in case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier."

5. From the perusal of the aforesaid rule, it comes out that the family pension is payable in case of unmarried daughter only until she attains the age of 25 years or until she gets married, whichever is earlier. In the case of the applicant, though she still continues to be unmarried but concededly, she has crossed the cut of age i.e. 25 years. *AK*

6. In this regard, the learned counsel for the applicant places his reliance on one of the letter issued by the Director Finance (CCA), Railway Board dated 30.12.2008 (Annexure-RA-1) which is also reproduced herein below :-

" Attention is invited to Board's letter of even no. dated 22.10.07 on the above subject, wherein it was advised that the matter regarding procedure to be followed for inclusion of the name of eligible widowed/divorced/unmarried daughters, parents etc. in the existing PPOs. has been referred to DOP&PW for clarification.

In this regard references have been received from some of the railways indicating that they have even held up the applications for sanction of family pension to eligible divorced/widowed daughters/parents for want of above clarification. It is clarified that so far no procedures has been prescribed by DOP&PW for inclusion of the name of eligible widowed/divorced/unmarried daughters in the PPO. However this should not hold consideration of the applications received from the eligible daughters/parents, if any, for sanction of family pension when their turn materializes (i.e. where the application is not for inclusion of the name in earlier PPO). Railways may consider such cases and process the same further for sanctioning family pension after having satisfied themselves of the eligibility of the claimants and obtaining necessary documentary evidence from them."

7. The learned counsel for applicant says that in the caption of this letter, it is mention that this letter is in respect of family pension to unmarried daughter or parents. But the entire reading of this letter shows that attention has been invited to Board's letter dated 22.10.2007 on the above subject wherein it was advised that the matter regarding procedure to be followed for inclusion of the name of eligible widowed/divorced/unmarried daughters, parents etc. in the existing PPOs. has been referred to DOP&PW for clarification. This letter further shows that in this regard references have been received from some of the railways indicating that they have even held up the applications for sanction of family pension to eligible divorced/widowed daughters/parents for want of above clarification. It is clarified that so far no procedures has been

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prescribed by DOP&PW for inclusion of the name of eligible widowed/divorced/unmarried daughters in the PPO. But at the same time it was desired that this should not hold consideration of the applications received from the eligible daughters/parents, if any, for sanction of family pension when their turn materializes i.e. where the application is not for inclusion of the name in earlier PPO). Railways may consider such cases and process the same further for sanctioning family pension after having satisfied themselves of the eligibility of the claimants and obtaining necessary documentary evidence from them.

8. The careful reading of the letter, shows that nowhere it has been said that unmarried daughter above 25 years of age shall be eligible for family pension. Otherwise, also such a letter cannot have overriding effect upon the rules. In the aforesaid rules of 1964 there is a clear embargo that in case of unmarried daughter, the family pension shall be sanctioned until she attains the age of 25 years or she gets married, whichever is earlier. As discussed hereinabove the applicant is though unmarred but she has crossed the age of 25 years. Secondly, it appears that the representation made by the applicant to the respondents was duly considered and finally it was rejected on 03.09.2008 mainly on the ground there were notable contradictions in the papers submitted on behalf of the applicant.

9. Finally, therefore, in view of the above, I regret in not finding any substance in the OA. Accordingly, the OA is dismissed. No order as to costs.

Alok Kumar Singh
25.3.11
(Justice Alok Kumar Singh)
Member (J)