

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Date of Order:- 15.12.06

Registration No. OA-40 of 2006

C O R A M

Hon'ble Km Sadhna Srivastava, Member (J)

Smt. Lachhminia Devi

...Applicant

-By Shri M.P.Dixit, Advocate

Versus

The Union of India & Others

....Respondents

-By Shri S.K.Singh, Advocate

ORDER

Km Sadhna Srivastava, Member (J) :- The applicant is claiming family pension from the date of death of her husband i.e. 19.2.1968 instead of ex-gratia payment granted by the respondents w.e.f. 1.1.1986.

2. The facts are that the applicant's husband, Ram Ashish, semi-skilled, Railway employee, died on 19.2.1968 while in active service. He had entered in Railway service in the year 1952. The respondents have alleged that the employees who were in service on April 1, 1957 were governed by Railway Contributory Provident Fund Scheme unless such employees had given their option as required under liberalised pension scheme as introduced in Railway, vide Railway Board's letter No.F(E)/50/RTI, dated 16.11.1957, w.e.f. 1.4.1957. The applicant's husband did not exercise his option before his death on 19.2.1968. Therefore, he was entitled only to ex-gratia payment as recommended by 14th Pay Commission w.e.f. 1.1.1986. She has accordingly been paid.



3. I have heard the learned counsel for the parties & perused the record. The question to be adjudicated by this Tribunal is whether the applicant is entitled to the benefit of family pension under the Family Pension Scheme as introduced by Railway Board's letter No.F(P)63 PN-1/40, dated 2.1.1964. The said Family Pension Scheme for Railway servants, 1964 has been subsequently made a part of Railway Services (Pension) Rules, 1993 and incorporated as Rule 75. The Rule 75(1) reads as follows:-

“75. Family Pension Scheme for railway servants, 1964

(1) The provisions of this rule shall apply :-

(a) to a railway servant entering service in a pensionable establishment on or after the 1st January, 1964; and


(b) to a railway servant who was in service on the 31<sup>st</sup> December, 1963 and came to be governed by the provisions of the Family Pension the Scheme for railway employees, 1964, contained in Railway Board's letter No.F(P)63PN-1/40, dated the 2<sup>nd</sup> January, 1964 as in force immediately before the commencement of these rules.

Note: The provisions of this rule has also been extended from 22<sup>nd</sup> September, 1977, to railway servants on pensionable establishments who retired or died before the 31<sup>st</sup> December, 1963 and also to those who were alive on that date but had opted out of the 1964 Scheme.”

4. The above rule clearly contemplates that the Family Pension Scheme was applicable to a Railway servant who was in service on 31st December, 1963. Therefore, I am of the opinion that the applicant was entitled to family pension as her husband was in railway service on the aforesaid date. It may be mentioned that a Single Member Bench of this Tribunal in the case of Smt. Birja Devi, OA No.388 of 2000 decided on 30.10.2001 has already granted family pension on the basis of aforementioned Rule 75 (1).

The said judgment in the case of Smt. Birja Devi has been upheld by the Hon'ble High Court, Patna in CWJC No.1864 of 2003 by order dated 19.2.2003. The respondents have pleaded in para 9 of the reply to the effect that the case of Smt. Soorti Devi bearing OA No.167 of 2000 allowed by this Bench of Tribunal dated 7.12.2001 has been stayed by High Court, Patna and admitted for hearing. However, the respondents have not filed the order of High Court. I am of the opinion that in these circumstances the order of the High Court confirming the judgment of Single Member of this Tribunal in OA No.388 of 2000 should be followed. I am in agreement with the reasoning advanced in the aforesaid case. Therefore, I hold that the applicant is entitled to family pension under Rule 75 of the Railway Services (Pension) Rules, 1993.

5. The respondents are, therefore, directed to grant family pension subject to adjustment of paid amount of ex-gratia, to the applicant as per rules within the period of three months from the date of receipt of a copy of this order. There shall, however, be no order as to costs.

  
(Sadhna Srivastava)  
Member (J)

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