

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY-400614

O.A. NO. 601/67

1. Master Dimple Ahluwalia
(aged about 16½ years)
2. Master Bipin Ahluwalia
(aged about 15 years)
Both the minors through
their mother legal and
Natural Guardian Smt. Asha Ahluwalia
C/o. G S Walia
89/10 Western Railway
Employees Colony,
Matunga Road, Bombay-19

Applicants

v/s.

1. Union of India
2. General Manager
Central Railway
Bombay V.T.
Bombay-400001
3. Divisional Railway Manager
Bombay Division
Central Railway
Bombay V.T.
Bombay-400001
4. Smt. Prakash Devi Ahluwalia
C/o. Shri Guru Mandir
Kothi No. 1525
Sector no. 7 C
Chandigarh

Respondents

Coram : Hon'ble Vice Chairman B C Gadgil
Hon'ble Member(A) J G Rajadhyaksha

Appearance:

Shri G S Walia
Advocate
for the Applicants

Shri P R Pai
Advocate
for the Respondents

TRIBUNAL'S ORDER
(Per: B C Gadgil, Vice Chairman)

DATED: 27.1.1988

Though this matter is to-day fixed for reply of Respondents and for considering the question of interim reliefs, we feel that the matter can be finally decided as it would be in the interest of the minor applicants.

2. Mr. Manoharlal Ahluwalia was a railway driver working under the Central Railway. He died on 20.5.1981. The applicants are the two minor sons of the said Manoharlal Ahluwalia. They have filed the present application through their Natural Guardian i.e., the mother Mrs. Asha Ahluwalia, claiming that all the retirement benefits such as provident fund, gratuity etc., should be paid to the applicants through their mother and that the family pension payable to the minor applicants should also be paid to them through their mother.

3. The application has already been admitted. Mr. Pai for the respondents contends that the mother of the late Manoharlal Ahluwalia has also made an application to the Railways that the retirement benefits be paid to her. It is true that under the Hindu Minority and Guardians Act, the mother is the natural guardian. However, the said Act is, so to say, supplementary to the provisions of the Guardians and Wards Act. Section 10 of the Guardians and Wards Act provides that an application either for appointment or for declaration of a person as a guardian can be made to the District Court and the said court after taking into consideration various circumstances would pass appropriate orders appointing or declaring any one person as a guardian of person or property or both. Mr. Walia submitted that there is no dispute in this case that the mother is the natural guardian and that in a decree that was passed in a divorce petition the custody of the minor children has been given to the mother. Mr. Pai submitted that the mother has remarried another husband. According to him that may be a circumstance for the purpose of deciding as to whether it would be in the interest of the minor children to make a declaration of the mother as a guardian.

4. After giving our anxious thoughts we feel that it would be in the fitness of things if the applicant makes an application for declaration and/or appointment

of herself as the guardian of the person and property of the minors. This is more so when the mother of the deceased railway employee has made an application to the railways objecting to the payment of pensionary benefits to the natural guardian. Of course, the question would still remain as to what arrangement should be made till such an application under the Guardians and Wards Act is made and decided one way or the other. It would be necessary that some provision should be made to enable the mother (with whom the minor children are staying) to provide for proper maintenance of the minor children till the application under the Guardians and Wards Act is decided. In our opinion, payment for eight months beginning from 1st March, 1988 of the family pension as determined by the Respondents, the Railways, payable to the minor children should be made to the natural guardian Smt. Asha Ahluwalia by the Railways and in the meantime the said natural guardian may file an application in the appropriate court for declaration of her right as a natural guardian of the person and property of the minors. It is needless to say that the natural guardian would be at liberty to move that court for appropriate interim reliefs as well. Hence we pass the following orders:

ORDER

- 1) The application partly succeeds.
- 2) The respondent railway administration is directed to pay appropriate family pension to Smt. Asha Ahluwalia as the mother of two minor sons Master Dimple and Master Bipin for a period of eight months beginning from 1st March, 1988. In the meantime the natural guardian may file appropriate proceedings in the appropriate court under the Guardians and Wards Act either for declaration or for appointing herself as a guardian of the person and property of the minor children. The

railway administration will do the needful in terms of the orders that would be passed in that application. It is needless to add that the mother can file any application for interim reliefs in the said application if need arises. With these directions, the application is disposed of with no order as to costs.

(J G Rajadhyaksha)
Member (A)

B. C. Gadgil
(B C Gadgil)
Vice Chairman

Mr. Walia for the applicant. Mr. Patil for the respondents. The above order is to be ~~not~~ ^{coupled} with uphill now. and a contempt petition is filed. Mr. Patil states that eight months' family pension is being arranged within a short time. Mr. Walia states that the applicant could not make application for grant of super-contingent pension for want of funds. He has orally ^{procured} that the respondents should be directed to pay family pension for a further period of 6 months i.e., total period of 12 months. The request is genuine. ~~The respondents~~ order

Respondents are directed to pay family pension for a further period of 6 months (i.e. total period of 12 months). This should be done before 21/6/1988.
B. C. Gadgil
30/6/1988.