

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 91/96-

Date of Decision 30.4.1996

Smt. Bhikhiben D. Fanchal

Petitioner

Shri G.S. Walia.

Advocate for the Petitioner.

Versus

Union of India & Ors.

Respondent

Shri N.K. Srinivasan.

Advocate for the Respondents.

Coram:

The Hon'ble Mr. B.S. Hegde, Member(J).

The Hon'ble Mr. -

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?

  
(B.S. HEGDE)  
MEMBER (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 91 /1996.

Coram: Hon'ble Shri B.S.Hegde, Member(J).

30th this day of April 1996.

Smt. Bhikhiben D.Panchal. ... Applicant.  
(By Advocate Shri G.S.Walia)  
V/s.

Union of India & Ors. ... Respondents.  
(By Advocate Shri N.K.Srinivasan)

O R D E R

(Per Shri B.S.Hegde, Member(J))

The applicant is a widow of Late Shri Doongar M.Panchal who was an employee of the Western Railway Workshop at Parel, Bombay since 29.11.1946 and left the Railways service on 1.8.1977 after putting in more than 30 years of qualifying service. He died on 23.1.1978. In this application, the applicant is seeking grant of ex-gratia pension.

2. Heard the arguments of Shri G.S.Walia, counsel for the applicant and Shri N.K.Srinivasan, counsel for the Respondents and perused the pleadings. After hearing both the counsel, I am of the opinion that the O.A. can be disposed of at the admission stage itself. In the result, we admit the O.A. and the same is being disposed of accordingly.

3. The question to be determined is whether the applicant who is a widow of the deceased employee is entitled to grant of ex-gratia pension from 1.1.1986, since she is an illiterate women and could not make any claim earlier. However, the cause of action arose in view of the impugned order dt. 20.3.1995

which reads as under:-

" Sub: Grant of Ex-gratia Pension.  
Re : Your application forms received on  
23.2.95 and further appeal dt.8.3.95.

...

With reference to your application quoted above, it is advised that your husband late Shri Doongar M., Ex.HSK B/Smith T.No.4327 of Smith shop/FL had Resigned from Rly.service w.e.f. 1.8.1977.

In terms of directives received from Railway Board in this connection families of Rly. employees who were governed by the SRPF rules and had resigned, are not eligible for Ex-gratia payment.

In view of above, your application for Ex-gratia Pension cannot be considered."

4. The applicant claims Ex-gratia payment in view of the D.O.P. O.M. dt: 30.6.1988 in which the Government of India grant Ex-gratia payment to widows of the employees who had retired prior to 1.11.1986. On Provident Fund scheme as C.P.F. optee, the contention of the applicant is that her husband resigned from service & on 1.8.1977 after completing more than 30 years of qualifying service. However, the only ground in rejecting the claim is that her husband has resigned and not retired from service. Since he had put in more than 30 years of qualifying service even if he had resigned, he would be entitled for Ex-gratia payment as per the D.O.P. Circular referred to above.

5. The respondents in their reply have only stated that the deceased employee was governed by C.P.F. Rules and the settlement dues were paid to him in accordance with the C.P.F. Rules and since he has

*for*

resigned from service and not retired applicant is not entitled for the same i.e. the Ex-gratia payment.

6. During the course of hearing, the learned counsel for the applicant Shri Walia in support of his contention that the widow is entitled to get grant of ex-gratia payment relied upon the decisions of this Tribunal in (1) O.A. No.1117/95 in Smt.Thakubai Bhima Saravade V/s. Union of India & Ors. (2) O.A. No.640/93 in Smt.Samuben Bhika Panchal V/s. Union of India & Anr. and (3) O.A. No.20/90 in Mrs.Evelyn Gracies V/s. The D.R.M., C.R., Bombay V.T. & Ors. In all those cases also similar issues arose for consideration and accordingly, the respective employees who had resigned from service after putting in more than 30 years of qualifying service were granted the benefit of ex-gratia payment in view of the D.D.P. Circular dt. 30.6.1988. In this case also insofar as the facts are concerned there is no dispute that the deceased employee had put in more than 30 years of qualifying service and the objection stated by the respondents is only a technical one and there is no merit in it. Though the learned counsel for the Respondents Shri Srinivasan has urged that similar matter has been referred to Full Bench, after verifying, I find that in that case the employee had put in less than 30 years of service, therefore, the matter was referred to Full Bench, that does not come in the way of

*Ken*

giving relief to the applicant in this case.

7. In the facts and circumstances of the case  
*no O.A. allowed and*  
I hereby direct the respondents to grant ex-gratia  
payment to the applicant w.e.f. 1.1.1986 and make the  
payment within a period of three months from the  
date of receipt of this order. The O.A. is disposed  
with the above direction. There will be no orders  
as to costs.

  
(B.S. HEGDE)  
MEMBER (J).

B.