

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 547/99

Date of Decision : 30th July 2001

M.S.Sahota

Applicant

Shri S.P.Saxena

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri A.I.Bhatkar

Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the reporter or not? *yes*
- (ii) Whether it needs to be circulated to other Benches of the Tribunal?
- (iii) Library *yes*

P.W.D.
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.547/99

Dated this the 30th day of July 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Mangal Singh Sahota,
R/at Flat No.10,
Neeta Gardens, Plot No.43,
Subhash Nagar, Vishrantwadi,
Pune.

...Applicant

By Advocate Shri S.P.Saxena

vs.

1. Union of India
through the Secretary,
Rail Board, Rail Bhavan,
New Delhi.
2. The General Manager,
Western Railway,
Churchgate,
Bombay.
3. The Divisional Railway Manager,
Bombay Central, Western Railway,
Bombay Division, Bombay.
4. Mrs.Manjeet Singh Kaur,
Asstt.Coaching Clerk,
C/o. Station Supdt.
Mira Road Railway Station,
Western Railway, Dist.Thane.
5. Master Sunny,
Son of Mrs.Manjeet Singh Kaur,
Address as above.

...Respondents

By Advocate Shri A.I.Bhatkar
for Respondents No. 1 to 3.
None for Respondents No. 4 & 5.

SDV/-

..2/-

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the applicant is entitled to receive the arrears of salary and allowances of the deceased employee, direction to the respondents to pay the arrears of pay and allowances of deceased Shri Jaswant Singh, his GPF, Insurance amount, Gratuity, leave encashment amounts to the applicant with 18% interest till the same are actually paid along with cost of the application.

2. Shri Jaswant Singh Sahota was employed as C.T.I. in Western Railway under Respondents No.2 & 3. On 17.5.1996 while in service at Kota, Rajasthan he expired. Shri Jaswant Singh Sahota left behind Mrs.Manjeet Kaur Sahota (his wife), Master Sunny (his son), Mr.Mangal Singh Sahota, (his father) Mrs.Surjeet Kaur Sahota (his mother). Mrs.Surjeet Kaur Sahota - the mother also expired on 20.5.1998.

3. The applicant has pleaded that his deceased son late Shri Jaswant Singh Sahota had not filed any Nomination Form in his service record in favour of his wife Mrs.Manjeet Kaur Sahota or his minor son but had filed nomination in favour of the applicant for Provident Fund, Group Insurance, Leave Encashment, Gratuity

PL/

..3/-

etc. The said fact is being disputed by the respondents and it is stated that the deceased employee had not executed any nomination form. The respondents have alleged that the payments towards settlement dues have been made to the widow of, the deceased Railway employee Jaswant Singh Sahota i.e. Mrs. Manjeet Kaur. It is further alleged that a letter dated 19.12.1996 was addressed to the applicant in response to his letter wherein he was requested to send documentary proof for what he had stated in his letter with regard to the wife of the deceased employee. It was also informed to the applicant that if the documentary proof is not received within 15 days, payment will be made as per the rules. The said reply was returned undelivered on 7.1.1997 with a remark that the party is not traceable. They did not receive any documentary proof from the applicant and therefore payments were made as well as compassionate appointment was granted to the wife of the deceased employee.

4. The learned counsel for the applicant fairly admitted that right to family pension is of only the widow and son of deceased Shri Jaswant Singh Sahota, i.e. Mrs. Manjeet Kaur Sahota and Master Sunny.

5. If we consider the claim regarding gratuity, Rule 70 (5) Railway Service (Pension) Rules, 1993 defines the word "family" for the purposes of Rules 70, 71, 73 and 74 of the same, 11 categories of the persons included in it. Rule 71 deals with

SN/-

persons to whom gratuity is payable. According to which, the gratuity payable under Rule 70 shall be paid to the person or persons on whom the right to receive the gratuity is conferred by making a nomination under Rule 74. As the facts of the present case, there is no nomination. Hence, Rule 71 (1)(a) is not at all applicable. Rule 70 (1) (b) is applicable in the present case which states that if there is no such nominations or if the nomination made does not subsist, the gratuity shall be paid in the manner indicated below :-

" (i) If there are one or more surviving members of the family as in clauses (i), (ii), (iii) and (iv) of sub-rule (5) of rule 70, to all such members in equal shares;

(ii) If there are no such surviving members of the family as in sub-clause (i) above, but there are one or more members as in clauses (v), (vi), (vii), (viii), (ix), (x) and (xi) of sub-rule (5) of rule 70 to all such members in equal shares."

Perusal of the same makes it clear that the family classified at Sr.No.(i), (ii), (iii) and (iv) of sub-rule (5) of Rule 70 deals with Rule 71 (i) (b) (i) and Rule 71 (i) (b) (ii) deals with the members of the family mentioned at Sr.No.(v) to (xi) as mentioned in sub-rule 5 of Rule 70. When surviving members of the family as mentioned in sub-clause (i) above means wife or wives including judicially separated wife or wives in the case of a male railway servant, husband including judicially separated husband in the case of a female railway servant, sons including step-sons and adopted sons, unmarried daughters

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including step-daughters and adopted daughters are available, the gratuity is not payable to persons mentioned in clause (v) to (xi) of sub-rule (5) of Rule 70. Hence, the applicant, who is the father of the deceased employee, is not entitled to the gratuity as stated above.

6. The applicant has claimed amount in respect of Group Insurance Scheme. As there is no nomination, the nomination made by the deceased employee under the GPF/CPF will prevail. In absence of any nomination either for GPF/CPF, the head of the office may make payments in equal shares to the widow/widows, minor sons and unmarried daughters. In the absence of above, the payment will be made in equal shares to other members of the family as mentioned in the GPF/CPF. Keeping in view the facts of the present case, the widow and the minor son of the deceased employee are available, hence the amount ought to have been paid only to them. The applicant being father of the deceased employee is not entitled to any amount in respect of Group Insurance Scheme (Swamy's Compilation on Group Insurance Schemes page 17).

7. The proposition as stated above in para 6 of this order in respect of Group Insurance Scheme also applies to Provident Fund amount.

Swamy

..6/-

8. Leave Encashment, arrears of pay and allowances payable to the deceased employee Shri Jaswant Singh are to be paid to his legal heirs as per provisions of Hindu Succession Act, 1956. In view of Section 8 (i) of the Hindu Succession Act, the heirs mentioned in the Schedule under Clause I - the relatives of the deceased are entitled to get the amount means the widow and the son. The applicant being father of the deceased employee is only entitled if there is no heirs of Clause I. Hence, the applicant is not entitled to any amount in respect of Leave Encashment and arrears of pay.

9. In the result, I do not find any merit in the OA., it is liable to be dismissed and is dismissed accordingly with no order as to costs.

PROV

(S.L.JAIN)

MEMBER (J)

mrj.