

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 20 of 1990. 198  
T.A. No.

DATE OF DECISION 3.7.90.

Mrs Evelyn Gracies Petitioner

Shri G.S.Walia, Advocate for the Petitioner(s)

Versus

Divisional Railway Manager and ors Respondent

Mr J.G.Sawant, Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. G.Sreedharan Nair, Vice Chairman.

The Hon'ble Mr. P.S.Chaudhuri, Member(Admn).

1. Whether Reporters of local papers may be allowed to see the Judgement ? ☒
2. To be referred to the Reporter or not ? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement ? ☒
4. Whether it needs to be circulated to other Benches of the Tribunal ? ☒

( G.Sreedharan Nair)  
Vice Chairman.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: NEW BOMBAY BENCH  
NEW BOMBAY.

O.A. 20/99.

Mrs Evelyn Gracies ..... Applicant.  
versus  
The Divisional Railway Manager,  
Central Railway, Bombay V.T. & ors ... Respondents.

P R E S E N T :

The Hon'ble Shri G. Sreedharan Nair, Vice Chairman.

The Hon'ble Shri P.S. Chaudhuri, Member (Admn).

For the applicant- Shri G.S. Walia, Advocate.

For the respondents - Shri J.G. Sawant, Advocate

Date of hearing - 29.6.90

Date of judgment and order- 3.7.90.

JUDGMENT & ORDER :

G. Sreedharan Nair, Vice Chairman :

By the Office Memorandum dated 13.6.1988 issued by the Ministry of Personnel, widows and dependent children of the deceased CPF (Central Provident Fund) beneficiaries who had retired from service prior to 1.1.1986 are allowed ex-gratia payment of Rs. 150/- per mensem. Such payment has also been allowed to the widows and dependent children of the CPF beneficiaries who died while in service prior to 1.1.1986.

2. The husband of the applicant was in the service of the Central Railways during the period from 1946 to 1977. He died on 13.3.1986.

3. On 18.11.1988, the applicant submitted an application for grant of ex-gratia payment in accordance with the aforesaid Office Memorandum. However, it was rejected on the ground that her husband had resigned from the Railway service.

4. The applicant again put in a representation stating that it was not a case of resignation but voluntary retirement after completion of 30 years of service and pointed out that

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even if an application was given by him for resignation, it should be construed as retirement as he had completed 30 years of service. But her request was not allowed and hence the present application, to quash the order of the respondents and for declaring that she is entitled to the ex-gratia payment.

5. In the reply filed on behalf of the respondents, it is contended that since the OM ~~xxx~~ applies only to widows and dependent children of the CPF beneficiaries, who had retired from service, the applicant was rightly denied the benefit as the husband of the applicant had resigned from service with effect from 21.5.1977.

6. The point that arises for determination is whether the applicant is entitled to the ex-gratia payment in accordance with the O.M. dated 13.6.1988.

7. There is a dispute as to whether the husband of the applicant retired from service voluntarily or submitted his resignation. It was submitted by the counsel of the applicant that even assuming that a letter of resignation was given it has to be deemed as retirement for the purpose of grant of pensionary benefits, including the benefit under the OM dated 13.6.1988, as the husband of the applicant rendered more than 30 years of service on 21.5.1977, the date on which, according to the respondents, he resigned from service. In support of the submission, ~~the~~ counsel brought to our attention Rule 101 of the Manual of Railway Pension Rules, 1950, where the retirement benefits for a permanent railway servant are specified, and it is provided that the said benefits are admissible to all permanent railway servants, except those who are removed or dismissed from service or resigned from it before completion of 30 years qualifying service. (Emphasis added)

It is not disputed that retirement benefits including family pension are being allowed to permanent railway servants even in the cases of those who resigned after completion of 30 years of qualifying service. From the aforesaid provision, it is evident that for the purpose of pensionary benefits, really there is no distinction between a railway servant who retires from service or resigns after rendering 30 years <sup>-if-</sup> qualifying service.

8. Counsel of the applicant has produced a copy of the letter of the Railway Board dated 23.1.1967 relating to grant of ex-gratia pension to railway employees who retired prior to 1.4.1957 after completing 20 years continuous service. Therein also, the employees who resigned from service after 30 years of service are made eligible, by excluding those employees who resigned with less than 30 years of service.

9. Thus, it is evident that the Railway Administration have been consistently treating the railway employees who resigned from service after 30 years qualifying service on a par with the employees who retired on the superannuation, for the purpose of grant of pensionary benefits.


10. The ex-gratia payment under the O.M. dated 13.6.1988 is indeed a pensionary benefit for the widows and dependent children of the CPF beneficiaries. As such, merely because the O.M. does not specifically refer to those who had resigned from service after completion of 30 years qualifying service, the respondents cannot refuse payment to the applicant. It may be pointed out in this context that even in Rule 101 of the Manual of Railway Pension Rules, 1950, or in the letter of the Railway Board dated 23.1.1967 relating to the grant of ex-gratia pension, there is no positive mention that the

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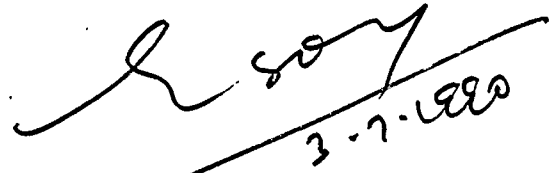
pensionary benefits or the ex-gratia pension shall be payable to those who have retired after rendering 30 years qualifying service. An inference in that behalf is available only from the negation of the benefits to those who resigned from service before completion of 30 years of service.

11. In view of the above, the order dated 29.8.1989 rejecting the request of the applicant for ex-gratia payment is set aside. It is declared that the applicant is entitled to the ex-gratia payment in accordance with O.M. dated 13.6.1988.

12. The application is disposed of as above.



( P.S. Chaudhuri )  
Member (Admn)

  
3.7.1990

( G. Sreedharan Nair )  
Vice Chairman.

S.P. Singh  
2.7.90.