

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 359/90

17.1.96

DATE OF DECISION

Smt. Prema G.Naik.

Petitioner

Shri D.V.Gangal

Advocate for the Petitioners

Versus

Union of India and others

Respondent

Shri N.K.Srinivasan

Advocate for the Respondent(s)

COURT:

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri

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 ?

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(16)

Original Application No. 359/90

Smt. Prema G.Naik

... Applicant.

V/s.

Union of India through
General Manager,
Western Railway,
Churchgate, Bombay.

Chief Workshop Manager,
Carriage & Wagon Workshop,
Lower Parel,
Bombay.

... Respondents.

CORAM: Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Appearance:

Shri D.V. Gangal, counsel
for the applicant.

Shri N.K. Srinivasan, counsel
for the respondents.

JUDGEMENT

Dated: 17th Jan. 1994

(Per Smt. Lakshmi Swaminathan, Member (J))

The applicant, who is the widow of a former Railway servant has sought relief of ex-gratia pension with effect from 1.1.86 under the scheme given in the Government of India, Ministry of Personnel Public Grievances and Pensions O.M. dated 13.6.1988, copy of which is given at Annexure 'B' to the application. Under the scheme, the widows and dependent children of the deceased Provident Fund beneficiaries who had retired from service prior to 1.1.86 are entitled for ex-gratia payment of Rs. 150/- p.m. with effect from 1.1.86 or from the date following the date of death of the deceased employees whichever is later.

2. The applicant's husband, who was working as Painter under respondent No.2 had resigned from service on 18.1.1962. He was governed by the contributory provident fund rules. He had put in a little less than 30 years of service at the time ~~he~~ resigned. Her representation for ex-gratia pension had been rejected by the respondents by ~~their letter dated 23.12.88~~ merely on the ground that her husband had resigned ~~from service~~. The Ministry of Railways had issued a clarification that the families of Railway employees who had resigned are not eligible for ex-gratia payment, but the families of those employees who were compulsorily retired or medically in-capacitated are eligible for ex-gratia payment. The learned counsel for the applicant has questioned this very reasoning of the respondents as being arbitrary and irrational. He has relied upon the recent decision of the Tribunal in OA 721/92, Smt. Sarojini Waman Shinde V/s.

Union of India through General Manager, Western Railway, Bombay dated 20.12.93. In this judgement the Tribunal has held that it is difficult to see the reason for exclusion of the category to which the applicant belongs, when the families of those employees who are compulsorily retired ^{and} medically incapacitated are eligible for ex-gratia pension. The Tribunal, therefore, allowed the application and declared that the applicant was entitled to ex-gratia payment, even though her husband had resigned from Railway Service on 1.7.76.

3. The facts in Smt. Sarojini Waman Shinde's case are similar in all material respects with the facts in the instant case and I am in respectful agreement with that judgement.

4. The learned counsel for the respondents had also urged the question of limitation stating that the application had been filed approximately six months late. The applicant has filed an application for condonation of delay on the grounds, *inter alia*, that she being an old lady of more than 70 years, widow and ~~for want of~~ sick could not get a lawyer within ^{of delay} limitation. The plea for condonation is accepted. I do not think this is a fit case for allowing the technical plea of limitation which is raised by the department to defeat an otherwise just claim for ex-gratia payment of pension admissible to the widow under the scheme. A similar view had been taken by this Tribunal in Smt. Laxmi Vishnu Patwardhan v/s. Secretary, Railway Board ATR 1988 (2) CAT 49.

5. In conclusion the application is allowed.

The applicant will be entitled to ex-gratia pension under the Government of India Scheme O.M. No.4/1/87. P & PW (PIC) dated 13.6.88. However, claim for arrears of pension is limited to arrears for one year before filing of this application in the Tribunal.

6. There shall be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)

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