

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 567/97

22.8-98
Date of Decision:

Smt. P.G. Aradhye

.. Applicant

Shri A.P. Lavate

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri R.R. Shetty

.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri D.S. Baweja, Member (A)

The Hon'ble

(1) To be referred to the Reporter or not ? ✓

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? P

D.S. Baweja
(D.S. BAWEJA)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

DA.NO.567/97

Presented this the 20th day of August 1998

CORAM: Hon'ble Shri D.S.Baweja, Member (A)

Smt.Prabhavati Ganesh Aradhye,
R/o 'NIKGIL' Co-op.Hsg. Socy,
Block No.11, Plot No.128/129
Sahakar Nagar No. 2, Pune.

By Advocate Shri A.P.Lavate

... Applicant

V/S.

Union of India through

1. General Manager(Personnel Branch) (Medical Section)
Central Railway, Mumbai
Chatrapati Shivaji Terminus.
2. Divisional Railway Manager
(Personnel Branch)(Pension Section) Central Railway,
Bhusaval.
3. F.A.& C.A.O. (Pension Section)
Central Railway, Mumbai (C.S.T.).

By Advocate Shri R.R.Shetty

... Respondents

O R D E R

(Per: Shri D.S.Baweja, Member (A))



This DA. has been filed challenging the orders dated 6.11.1996 and 19.2.1997 through which the claim of the applicant for ex-gratia pension has been rejected with a prayer to quash these orders and to direct respondents to make payment of ex-gratia ~~pension~~ to the applicant from 1.1.1986 onwards.



.. 2/-

2. The applicant claims that she is the widow of late Ganesh Raghunath Aradhye who was a Railway servant and died on 4.3.1954 when in service and ^{was} posted as Senior Clerk at Bhusaval. The applicant submits that her late husband was appointed as Clerk in the Medical Department in ^{at Mumbai} the year 1939/. She claims that she is the only wife of late Shri Ganesh Raghunath Aradhye and their marriage took place in 1940. The applicant submits that she ~~came to~~ know in 1989 that widow of a Railway servant is entitled for ex-gratia payment from 1.1.1986 and submitted an application dated 23.7.1990 to ^{the} Divisional Railway Manager, Bhusaval making a request for grant of ex-gratia pension. The applicant submitted an affidavit along with the two affidavits of the Railway employees confirming that the late husband of the applicant was Railway employee. Thereafter, the applicant pursued the matter both with the Divisional Railway Manager as well as with the Headquarters' office. Her case was rejected as per order dated 6.11.1996. However, she pursued the matter further and the same was again rejected by the respondents as per order dated 19.2.1997. The present application has been filed on being aggrieved by these orders on 6.6.1997.

3. The main argument of the applicant is that ~~since she~~ could not trace out any service document of her late husband after more than 35 to 40 years of death and, therefore, in terms of the provisions of the Department of Personnel's Circular dated 13.6.1988, she has submitted the required documents and the affidavits to establish her claim. The respondents



have rejected the claim of the applicant without assigning any reasons and indicating as to how the documents produced by the applicant do not establish the genuineness of the claim made by the applicant. She further states that no enquiry has been conducted by the Welfare Inspector to examine the Railway employees who have filed the affidavits with regard to her claim that her late husband was a Railway employee.

4. The respondents in their reply have submitted that in terms of the Circular dated 13.6.1988 of Department of Personnel, the Head of the office ^{to} has to satisfy himself as the bonafide of the claim for the payment of ex-gratia pension. In the present case, the Railway has no documents with regard to late Shri Ganesh Raghunath Aradhye being a Government servant as claimed by the applicant. The documents furnished by the applicant are not adequate to establish the claim of the applicant for grant of ex-gratia pension. The respondents have also relied upon the letter dated 29.5.1991 of Ministry of Railways which lays down that where there is no evidence or proof that the deceased was an employee of the Railways, the ex-gratia payment should not be granted merely on the ground of an affidavit if the sanctioning authority is not satisfied with regard to the genuineness of claim for ex-gratia pension. The respondents, therefore, contend that the application has no merit and the same deserves to be dismissed.

5. The applicant has filed rejoinder reply controverting the submissions of respondents and reaffirming the grounds taken in the original application. The applicant has further placed reliance on the Circular dated 9.2.1995 issued by the Department of Personnel.

6. I have heard the arguments of Shri A.P. Lavate, learned counsel for the applicant and Shri R.R.Shetty, learned counsel for the respondents. The material brought on record has been also gone into.

7. The applicant has put in claim for ex-gratia pension in terms of the Office Memorandum dated 13.6.1988 of Ministry of Personnel, Public Grievances and Pension on account of being the widow of Shri Ganesh Raghunath Aradhye who is claimed to be a Railway servant and died on 4.3.1954 while being in service. From the averments of the rival parties, it is an admitted position that neither the widow nor the Railway authority has any official documents to establish that late Shri Ganesh Raghunath Aradhye was a Railway servant and died while being in service. On a reference to ^{the} Office Memorandum dated 13.6.1988, it is noted that such a situation is envisaged and the procedure to be followed in the absence of such documents has been detailed in Para 4(b). Para 4 (b) lays down that any of the three documents could be submitted to establish the bonafide. The applicant submits that she has followed the documents as in (iii) and accordingly submitted her affidavit along with two supporting affidavits which are the affidavits of the retired Railway employees to whom the late husband of the applicant was known and they are also staying at Bhusaval. In addition to this, the applicant

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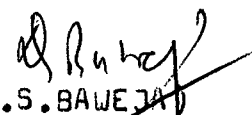
has also submitted an Indemnity Bond. The respondents have admitted the submission of these documents but have rejected the claim of the applicant on the plea that the competent authority has been not satisfied with these documents^{as} being sufficient to establish the genuineness of the claim. The respondents in addition to the Office Memorandum dated 13.6.1988 have also relied upon the Circular dated 5.6.1991 of Ministry of Railways to support their contention ~~for rejection~~ of the claim. On going through these Circulars, it is conceded that it is the responsibility of the applicant to satisfy the Head of the Office that she or he is the widow or widower of the Government employee concerned ~~eligible~~ to receive the ex-gratia ~~pension~~ as per the scheme laid down. The competent authority has to satisfy himself that the documentary evidence furnished by the applicant establishes the claim as ~~bonafide~~ bonafide. In the present case, the respondents have stated that the competent authority is not satisfied with the documentary evidence to accept the claim. However, it is noted that no reasons have been indicated in the impugned orders as to how the documentary evidence is not sufficient to establish the bonafides of the applicant. Even in the written reply, the respondents have not come out as to on what basis the ~~documentary~~ documentary evidence submitted by the applicant has been not found sufficient for the satisfaction of the competent authority. The applicant has also alleged that no enquiry has been conducted by deputing the Welfare Inspector with regard to the genuineness of the affidavits filed. As already indicated,



the applicant has brought out on record the instructions dated 9.2.1995 of the Ministry of Personnel, Public Grievances and Pension in support of her case. On perusal of this Circular, it is noted that keeping in view the difficulties being experienced by the widows in establishing their claim for ex-gratia pension, further clarifications have been issued to facilitate the consideration of the claims for ex-gratia pension. In Para 3 of this Circular, it is laid down that after the receipt of the documents from the applicant, the Pension Sanctioning Authority may take suitable steps to verify the correctness of the documents produced for the payment. The instructions also lay down that the enquiry shall be completed as expeditiously as possible. Further, in Para 2 of the same Circular, it is also envisaged that on the submission of affidavit, provisional pension should be authorised pending enquiry or any other steps to be taken for verification of the claim. In the present case, as stated earlier, obviously no enquiry has been conducted by the respondents to inquire into the claim of the applicant based on the documentary evidence produced. Keeping in view the instructions detailed in Office Memorandum dated 9.2.1995, I am of the considered opinion that the present case can be disposed of by directing the respondents to hold an enquiry to verify the genuineness of the documentary evidence produced and thereafter consider the claim of the applicant for ex-gratia pension.

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8. Keeping in view the above, the OA. is allowed and the impugned orders are quashed. The respondents are directed to hold an enquiry for verification of the claim of the applicant as envisaged in Office Memorandum dated 9.2.1995 associating the applicant. The enquiry will be completed within a period of three months from the date of receipt of the order. In case the claim of the applicant is established, then the payment of the pension shall be arranged within a period of two months thereafter including the payment of arrears of pension as become due from 1.1.1986. In case the claim of the applicant is not accepted, the applicant shall be suitably replied through a speaking order within a period of one month after completion of the enquiry. No orders as to costs.


(D.S. BAWEJA)
MEMBER (A)

mrj.