

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 764/97

3rd January 2000

DATE OF DECISION: 03-01-2000

Smt. Putalabai w/o Late Shri Yadav Applicant.  
Ganpat Sonawane

Shri R.G. Jangam Advocate for  
Applicant.

Versus

Union of India & 3 Others Respondents.

Shri V.S. Masurkar Advocate for  
Respondent(s)

CORAM

Hon'ble Shri B.N. BAHADUR MEMBER (A)

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

} No

B. N. Bahadur

( B.N. BAHADUR ),

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

O.A. No.764/97

Dated this 3rd the Day of January <sup>2000</sup> ~~1999~~

Coram : Hon'ble Shri B.N. Bahadur, Member (A).

Smt.Putalabai w/o late  
Shri Yadav Ganpat Sonawane, Ex-Gatekeeper,  
Amalner C/o Radhakrishna G. Jangam,  
Advocate, Shiv Mandir, Plot No.116 and  
117, Dr.Ambedkar Road, Mulund(W),  
Mumbai - 400 080.  
Applicant by Shri R.G. Jangam, Advocate.

... Applicant

vs.

1. Union of India, acting through  
The General Manager of Western  
Railway, H.Q. Office, Churchgate,  
Mumbai - 400 020.

2. The Divisional Railway Manager,  
Western Railway, Divisional Office,  
at Mumbai Central, Mumbai-400018.

3. The Divisional Accounts Officer,  
Western Railway Mumbai Central,  
Divisional Office, Mumbai Central.

4. The Chief Permanent Way Inspector,  
Western Railway, Amalner Dist. Jalgaon,  
Maharashtra.

.. Respondents.

Respondents by Shri V.S. Masurkar, Counsel

ORDER

( Per : Shri B.N. Bahadur, Member (A) ).

This is an application made by Smt.Putalabai wife of late  
Shri Yadav Ganpat Sonawane, seeking a direction from this Tribunal  
to the respondents to make payment of ex-gratia payment as  
sanctioned by Ministry of Personnel vide O.M. dated 13.6.1988.  
The applicant also claims payment of arrears from 1.1.1986  
alongwith interest.

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2. The facts of the case, as stated by applicant, are that the husband of the applicant joined as Gatekeeper with Western Railways (WR) on 21.10.46 and retired voluntarily from service with effect from 21.6.1967 i.e. after service of 20 years and 8 months. It is averred by applicant that in 1988, the Union Government published a scheme whereby widows of deceased CPF beneficiaries of government servants who had retired prior to 1.1.1986 were to be given ex-gratia payment of Rs.150/- per month with effect from 1.1.1986. Other details of this scheme have described by the applicant.

3. The applicant avers that she applied for ex-gratia payment and was sanctioned this amount by respondent no.2 <sup>who sent</sup> the papers to respondent no.3, who however rejected the claim and returned the papers to respondent no.2. Respondent no.2 thereafter informed applicant of this decision vide their letter dated 20.9.1995 (exhibit A-1). Applicant states that the respondents have rejected the application on the ground that her husband's case was one of 'resignation' and not of voluntary retirement. Thus aggrieved the applicant is before the Tribunal.

4. The respondents have filed the written statement in which they have stated that such relief is permissible to widows/dependent children of the deceased CPF/SRPF beneficiaries who had retired from service/died in service prior to 1.1.1986. It is true that the papers of the applicant were forwarded for arranging the ex-gratia payment to the applicant vide letter (at Exhibit R-1) dated 2.8.1989 however, the Senior DAO had returned

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the papers as the ex-gratia payment was not permissible in case of those employees who had resigned from service. It is claimed that the forwarding of the case, as explained above, was a mistake. Letters of the Sr.DAO are cited and enclosed and it is further denied that her husband took voluntary retirement. It is also averred that, even assuming that he had taken voluntary retirement on the said date (21.6.67) the scheme of voluntary retirement was not applicable to him as it was notified vide letter dated 9.11.1977. Thus the respondents pray that the application may be dismissed.

5. I have heard the learned counsel on both sides. The learned counsel for the applicant argued the case in detail citing the various papers annexed with this application, as also a publication which perhaps is issued through some magazine titled 'Pensioners'. It was argued by him that the applicant is fully entitled to the benefits claimed, and that the respondent no.2 had, infact, accepted this when he forwarded the application as prescribed above. It was only the Accounts Department which was taking a contrary view learned counsel strenuously argued that the stand of the accounts department was not valid, and the ex-gratia payment already 'sanctioned' by DRM/BCT should be ordered to be paid. Learned counsel referred to the case of Maruti Zende which has been described in the aforesaid issue of 'Pensioner'.

6. Arguing the case on behalf of the respondents, their learned counsel reiterated the facts of the case as also

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the averments made in the written statement and strongly took the point that the scheme was not in operation in 1967 when the applicant ceased to work for the Respondents as explained above. It is stated that it was clear from a reading of Exhibit R-5, through which the Scheme was circulated. Counsel for Respondents reiterated that the recommendation of the case made to Sr.DAO was a bonafide mistake. He argued that only the law will prevail. It was also argued that L.R.s cannot come forth arguing such a case and had no local standi in the matter to come forth and claim that resignation should be treated as voluntary retirement.

7. I have considered all the papers in the case, and the arguments made by learned counsel on both sides. It is seen from a perusal of the impugned letter dtd.20.9.1995 that the rejection of the request of the applicant has been made on the ground that her husband Y.G. Sonawane had resigned, and therefore it cannot be accepted to have been a case of voluntary retirement, since the Scheme of voluntary retirement came in 1997. As regards the case for ex-gratia payment, the impugned letter cites the reason that it has been returned by Sr.DAO/DCP and refers to the letter of this officer dated 15.11.1989. The letter dated 15.11.1989 is not seen on record but the communication made by R-4 gives the same reason i.e.that the official has actually resigned.

8. After considering all salient arguments made, the first issue that can be take up here is the point made by Counsel for respondents that the applicant cannot be stated to have taken

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Ans

voluntary retirement since the scheme of voluntary retirement did not exist till 1977, and the applicant had left service in June 1967. This averment is made at para 7 of the written statement of respondents. Now it is observed from a reading of exhibit A that is being depended upon heavily by applicant, that the O.M. talks of people who had retired from service (prior to 1.1.1986). Firstly it is emphatically stated by respondents that this was a case of resignation, but even assuming (as argued in para 7 of written statement) that the applicant had asked for retirement it is relelvent to note that the scheme of voluntary retirement did not exist till 1977. Hence it cannot be held that the applciant had sought voluntary retirement. Hence this does not even appear to be a case where a person had asked for resignation instead of retirement either out of anger or ignorance.

9. It is also clear from a reading of the issue of 'Pensioners' cited above that the case cited therein cannot be taken to be relevant to the case before us, and cannot help the cause of the applicant.

10. In view of reasons cited above there is no case for the grant of the reliefs as sought by the applicant. This application is therefore dismissed with no order as to costs.

*B.N. Bahadur*

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03-07-2000  
( B.N. BAHADUR )

MEMBER (A)