

AT HYDERABAD. HYDERABAD BENCH.

O.A.NO. 828/94

DATE OF JUDGMENT: 10.5.95

BETWEEN:

M.Vijaya

v.Sumathi

.... Applican ts

A N D

1. The General Manager,
South Central Railway,
Secunderabad.

2. The Chief Personnel Officer,
S.C.Railway,
Secunderabad.

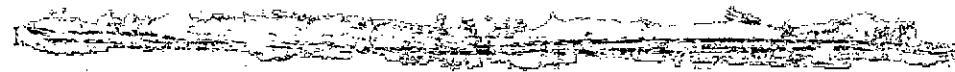
3. The FA & CAO,
South Central Railway,
Secunderabad.

.... Respondents.

COUNSEL FOR THE APPLICANT: SHRI K.S.Kumar

COUNSEL FOR THE RESPONDENTS: SHRI N.V.Ramana
Sr./Addl.CGSC

CORAM:



HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....

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O.A. NO. 828/94.

JUDGMENT

Dt: 10.5.95

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

Heard Shri N.V.Ramana, learned standing counsel for the respondents.

father of the [redacted] Welfare Inspector under CPO/D/SC in South Central Railway expired on 28.12.1990. His wife pre-deceased him and he has two daughters both of them were married [redacted] before his death. The applicant had [redacted] accumulated leave to the extent of 240 days as can be seen from the representation of the 2nd applicant addressed to R-I (Annexure-I). It is further stated that the applicants requested for encashment of [redacted] of their deceased father leave salary/ to be paid to them in equal share and they made representation dated 3.3.1992 to R-I to that effect. They got legal notice issued on 6.10.1992 for payment of leave salary encashment. But the Railways did not pay the cash equivalent [redacted] the leave salary relying on the Board's letter No.F(E)III/84/LE/1, dated 8.11.1993 as this letter takes effect from [redacted]

3. In view of the above, this OA is filed praying for direction to the respondents to relax the effective date of Board's letter dated 8.11.1993 and extend the benefit of [redacted] to the applicants and for consequential direction to the respondents to pay the cash equivalent of leave salary to the applicants.

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4. The learned standing counsel for the respondents produced before me the Railway Board's letter No. F(E) III-84/LE-I/1, dated 2.2.1985 circulated under Serial ~~.....~~ Circular letter No.P(R)420/III, dated 14/20.2.1985). As per this letter, encasement of leave salary if an employee dies while in harness is payable to the widow and if there are more widows than one, to the eldest surviving widow if the deceased ~~Railway employee or to the husband, if the deceased was a female Railway employee~~

5. It is further stated in that letter that if there is no widow or husband, it is payable to the eldest surviving son or an adopted son failing which to the eldest surviving unmarried daughter, failing which to the eldest surviving widowed daughter, failing which to the father or to the mother of the deceased failing which to the eldest surviving brother below the age of 18 years failing which to the eldest surviving unmarried sister, failing which to the eldest surviving widowed sister. It is stated by the respondents that ~~they did~~ not receive any claim from any body for payment of leave ~~salary in terms~~ of letter dt. 2.2.85 quoted above.

6. Further clarification was asked for from the Railway Board as to whether married daughters are eligible for receiving ~~now~~ cash equivalent ~~of~~ leave ~~unutilised~~. The Railway Board, vide letter No.F(E) III/84/LE1/1, dated 8.11.1993 circulated under SC Railway



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Serial Circular No.116/93 (Annexure-III). ~~and dated~~
clarified that the cash equivalent to leave salary
to the eldest surviving married daughter
and failing that to the eldest child of a pre-deceased
son of the deceased Railway employee. It is further
clarified that this order ~~xxix~~ dated 8.11.1993 will
be effective from 30.9.1993.

7. In view of this, the learned standing counsel
for the respondents submitted that daughters who are
not married are not eligible to receive the cash equi-
valent of leave salary as their father died earlier.

8. None eligible came forward to receive the
cash equivalent of leave salary of Shri A.V.Raghavaiah
(applicants' father) in terms of the Railway Board's
letter dated 2.2.1985. Married daughters are not
eligible to receive the cash equivalent of leave
salary for those who died earlier to ~~8.11.93~~ per
the Railway Board's letter dated ~~8.11.93~~. In
view of this, the learned standing counsel states
by implication that these amounts will be taken on
Railway revenue and married daughters who are the
applicants in this OA are not entitled to cash equi-
valent of leave salary.

contd....

9. Cash equivalent of leave salary is earned by the applicants' father. It is unfair to deprive his legitimate heirs viz. his married daughters from getting the cash equivalent of leave salary, Though Board vide letter dated 8.11.1993 had permitted payment of cash equivalent of leave salary even to the married daughter, the above payment is restricted in case of those married daughters whose father had died after 30.9.1993. There is no reason given for applicability of the rule only from 30.9.1993. As it is stated that there is no claimant for receiving the cash equivalent of leave salary of the deceased Sri Raghavaiah in terms of Railway Board's letter dt. 2.2.85 there can be no reason to deny the cash equivalent of leave salary

payment for married daughters is effective only from 30.9.1993. I am of the opinion that this artificial restriction in this case is not necessary as there is no claimant for receiving the cash equivalent of leave salary of the deceased in terms of letter dt. 2.2.1985 and as the leave is ^{an} earned one by the deceased, it should reach the legitimate heirs and should not be credited to the Railway Revenue under some miscellaneous heads.

10. The applicants herein had already stated in their application that the cash will be shared by them equally. Hence, the respondents will not find it difficult to divide the cash and pay the applicants though they are married daughters of Sri A.V.Raghavaiah. I do not see any claimants in future also as none have claimed so far eventhough Sri Raghavaiah expired in December, 1990.

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11. In the result, the following direction is given:-

R-1 is directed to pay cash equivalent of leave salary of Sri Raghavaiah, the deceased father of the applicants herein, to both the applicants in this OA equally.

12. Time for compliance is three months from the date of receipt of this order.

13. The OA is ordered accordingly. No costs.



(R.Rangarajan)

Dated 10th May, 1995.
Open court dictation.

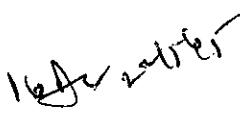
vsn/grh.


Deputy Registrar (Judl.)

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
3. The FA & CAO, S.C.Railway, Secunderabad.
4. One copy to Sri. K.S.Kumar, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-



THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEE LADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M (ADMN.)

DATED 10/5/ 1995.

ORDER/JUDGMENT:

OA. NO. 826/94

TA. NO. 828/94

(W.P.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

*AB
22/5/95*

