

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.1303/94.

Date of order : 10.2.1997.

Between

M.Simhachalam

.. Applicant

And

1. Union of India,  
Reptd. by its Secy., (Estt),  
Railway Board,  
New Delhi-110001.

① ③ Financial Advisor  
S.E.Rly. Garden Reach,  
Calcutta - 43.

2. General Manager,  
S.E.Rly., Garden Reach,  
Calcutta-700043.

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3. Divl. Rly. Manager (Personnel),  
S.E.Rly., Waltair,  
Visakhapatnam-530004. .. Respondents

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Counsel for the Applicant .. Shri Patro for  
Shri P.B.Vijaya Kumar

Counsel for the Respondents .. Shri V.Rajeswara Rao for  
Shri N.R.Devarej, SC for Rly

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C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Order

(Per Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman)

The applicant is the widow of late Jagannadham who was working as Ex-Gangman under P.W.I., S.E.Rly., Vizianagaram and died in harness on 27.11.76, <sup>He</sup> who was run over by an Express train while on duty.

2. The applicant submitted an application to the Divl. Rly. Manager, S.E.Rly., Visakhapatnam for grant of family pension on 26.5.93. That was followed by a reminder dated 28.6.93 and a further reminder dated 7.2.94 none of which were responded to by the authorities. Hence the applicant filed the instant O.A. on 19.10.94 praying for a direction to the respondents to pay family pension together with the Dearness Relief as applicable from time to time w.e.f. 24.10.86 and to continue to pay the same. She relies on

on paras 3 and 4 of the Railway Board's letter No.F(E)III/85/  
FN-1/19 dated 19.12.86 published on 20.1.87 (Annexure-I).

3. The respondents have not chosen to file any counter. Although initially notice before admission was issued on 31.10.94 and even after the O.A. was admitted on 19.1.95. The facts mentioned by the applicant therefore remain uncontroverted.

4. The applicant has stated that her deceased husband was granted temporary status as Gangman on 24.4.73 and he was regularised as a Gangman after passing the necessary medical examination by the appropriate medical authority for such posting. It appears from the letter of the Railway Board dated 20.1.87 that prior to that date family pension was not granted to those Railway servants who died before 27.1.79 without completion of one year's continuous service. However the said letter states in para 3 that after the question was considered in view of large number of representations received from various quarters the President was pleased to decide that the benefits of Family Pension Scheme, 1964 be extended to the families of those Railway servants who died before completion of one year's continuous service prior to 27.1.79 but who had been examined by the appropriate medical authority and declared fit for Railway service prior to their appointment. Para 4 of the said letter provided that the said orders would be effective from 24.10.86 and no arrears would be admissible.

5. It appears that since the date of regularisation of the applicant was 2.4.76 and as he had not put in one year's continuous service upto the time of his death on 27.11.76 the claim of the applicant was not considered under the rules as were prevailing prior to the aforesaid letter of the Railway Board dated 20.1.87. The respondents were however required to consider the claim of the applicant in the light of the provisions of the said letter dated 20.1.87 after the said letter had been issued and when the applicant had

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requested for payment of family pension although belatedly <sup>entitled</sup> on 26.5.93. The applicant clearly appears <sup>to be</sup> extended the benefit of the decision of the President conveyed through the letter of the Railway Board aforesaid dated 20.1.87. The question of actual payment of arrears from a prior date also was required to be decided by the respondents. The entitlement of the applicant under the letter of the Railway Board dated 20.1.87 is not disputed by the respondents as they have not resisted this application. Hence the following order:

Order

It is declared that the applicant is entitled to receive family pension from the respondents consequent upon the death of her husband on 27.11.96 in terms of the letter of the Railway Board No.P/Pen/Family Pension/87 dated 20.1.87 read with the letter of the Railway Board No.F(E)III/85/PN-1/19 dated 19.12.86.

The respondents are directed to finalise the claim of the applicant within a period of two months from the date of receipt of copy of this order and pay the arrears of the family pension together with Dearness Relief as may be found payable to her within a period of two months thereafter. The respondents are directed to commence the payment of current family pension from the calendar month following the date of receipt of this order. The questioned arrears may be determined separately and paid. The O.A. is allowed in terms of the above order. No order as to costs.

*M.G. Chaudhari*  
( M.G. Chaudhari )  
Vice-Chairman.

Dated: 10.2.1997.  
Dictated in Open Court.

br.

*Amal Kumar*  
Deputy Registrar (D) CC

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O.A.1303/94.

To

u). Financial Advisor, SE Rly,  
Garden Reach, Calcutta.

1. The Secretary(Estt.)  
Union of India, Railway Board,  
New Delhi-1.
2. The General Manager, SE Rly,  
Garden Reach, Calcutta-43.
3. The Divisional Railway Manager(Personnel)  
SE Rly, Waltair, Visakhapatnam-4.
4. One copy to Mr.P.B.Vijayakumar, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One copy to ~~xxxxxxx~~ D.R.(A) CA<sup>T</sup>.Hyd.
8. One spare copy.

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