

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No 202/94

Date of Order: 23.2.1994

BETWEEN :

1. Kumari G.Swarna Latha .. Applicant.

A N D

1. U.O.I., Represented by
General Manager, South
Eastern Railway, Garden
Reach, Calcutta-43.

2. The F.A. & C.A.O.,
South Eastern Railway,
Garden Reach, Calcutta 43.

3. The Chief Personnel Officer,
South Eastern Railway,
Garden Reach, Calcutta-43.

4. The District Treasury Officer,
Visakhapatnam (A.P.)

5. The Sub-treasury Officer,
Visakhapatnam (AP.) .. Respondents.

Counsel for the Applicant

.. Mr.P.Sri Raghuram

Counsel for the Respondents

.. Mr.C.V.Malla Reddy
R1 to R3

Mr.D.Panduranga Reddy
R4 to R5

CORAM:

HON'BLE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

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

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JUDGMENT

As per Hon'ble Sri R.Rangarajan, Member(Administrative)

Heard Sri P.Sri Raghuram, learned counsel for the applicant and Sri C.V.Malla Reddy, learned Counsel for respondents 1 to 3 and Sri D.Panduranga Reddy, SC for A.P. for R-4 & R-5.

2. The applicant is the unmarried daughter of Shri G.Y.Sharma who retired from Railway Service in the year 1974 as Peon in Carriage and Wagon, Wing of the Mechanical Department at Visakapatnam. As per the letter of R-2 dated 19.10.1983 (Annexure A-1) the applicant is entitled for family pension who was then the minor daughter, her date of birth being 13.7.1966, till 12.7.1987 i.e. upto attaining the age of 21. As her mother had pre-deceased her father on 25.12.1975 and her father expired on 24.8.1982, the above said order at Annexure A-1 was issued by R-2 as stated above. ~~This~~ The age limit of 21 was raised to 24 by the letter at Annexure-3 for unmarried daughters which was also further raised to the age of 30 by the Establishment Serial No.160/86 dt. 7.8.1986 at Annexure-4. She represented to R-5 to continue her family pension beyond 12.7.1987 as per above circular. Though R-5 wrote to R-2 requesting him to give necessary authorisation for the drawal of the applicant's family pension beyond July, 1987, no reply was received. R-5 on his own extended the family pension to her upto 31.12.1989. She also represented her case to the Ministry of Railways and the Pensioners' Association also took up her case. The Railway Board at last gave the guidelines to R-2 to regulate grant of family pension to

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her in accordance with orders contained in letter dt. 28.2.1989. However, R-2 (~~rejected~~) the authorisation for family pension to the applicant beyond the age of 21 years as can be seen from the letters dt. 15.3.1993 (Annexure A-14) and letter dt. 13.4.1993 (Annexure A-15). Aggrieved by the above she has filed this O.A. for a direction to quash the orders of R-2 dt. 5.3.1993 and 15.4.1993 annexed at A-14 & 15 as illegal, arbitrary and without jurisdiction and for a further direction to pay family pension to her from 1.1.1990 to 12.7.1996 ~~and~~ till she attains the age of 30 years at Rs.375/- per month and Dearness relief thereon enhanced from time to time and also for a further direction to pay interest at 11% per annum and penalty at 50% of the total amount due till the date of filing the application for the delay and non-payment of family pension without any valid and legal grounds.

3. The consolidated guidelines for payment of family pension for sons ~~and~~ unmarried daughters were issued by the Railway Board by their letter No.F(E) III/85/PN-1/19 dt. 28.2.89/ 3.3.89 (Annexure-13). As per this letter she is entitled to continue to get family pension upto the age of 30 years in terms of para-2 and 3(a) of the above said circular of the Railway Board. The above said instructions are reproduced below:-

"(2) Railway Board lr.No.F(E) III/85/PN-1/19 dt.9.7.86.

Unmarried daughters who had not crossed the age of 24 years as on 9.7.86 would continue to get family pension upto the age of 30 years.

The unmarried daughters who had already crossed the age of 24 years as on 9.7.86 would not be entitled to the benefit of increase in the age limit under the above mentioned orders.

(3) Railway Board lr.No.F(E)/III/85/PN-1/19 dt.28.9.87.

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(a) Where the payment of family pension to an unmarried daughter has already commenced prior to 6.8.87, she will continue to draw the same until she has attained the age of 30 years.

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(b) In the case of unmarried daughters where the payment of family pension commenced on or after 6.8.87, the same will be tenable upto their age of 25 years."

4. The applicant's date of birth is 13.7.1966 and accordingly she has not crossed the age of 24 years on 9.7.1986. Hence she is entitled to continue to draw family pension upto 12.7.1996 i.e. the date on which ~~she attains~~ 30 years of age in terms of para-(2) of the Railway Board's letter above.

5. Similarly the applicant commenced drawing family pension from 25.8.82 i.e. much before 6.8.87 and hence she is entitled to continue to draw family pension upto 12.7.1996 i.e. until she attains the age of 30 years. However, she would become ineligible for family pension from the date on which she gets married or she starts earning before attaining the age of 30.

6. It is stated by her that presumably R-2 has ~~regretted~~ payment of family pension to her because of the applicability of the Railway Board's letter dt. 11.5.78 (Annexure-3) has been clarified by the Board's letter dt. 27.1.1979 (Annexure A-17) and restricted to the Children of ~~W~~ only those Railway servants who retired or died while in service on or after 29.3.1978 and the applicant's father had retired from Railway service in the year 1974.

7. We have looked into the Railway Board's circular dt. 27.1.1979. This is more in nature of clarification and in any case it runs counter to the general order issued by Railway Board in letter No.F(E)III/85/PN-1/19 dt. 28.2.89/ 3.3.1989 (Annexure-A13) wherein it has been made clear that unmarried daughter who had not crossed the age of 24 years as on 9.7.1986 would continue to get family pension upto the age of 30 years. Hence it has to be held that Rly Board's letter dt 27.1.79 stands superseded by the later circular dated 31-2-89/3.3.89.

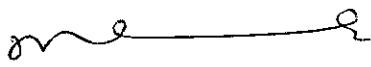
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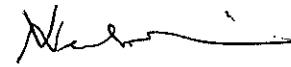
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8. In the result the application is allowed and the orders of R-2 dt. 5.3.1993 and 15.4.1993 at Annexure-14 & 15 are quashed. Respondents 2 to 5 are hereby directed to restore the payment of family pension to the applicant upto the age of 30 years i.e. upto 12.7.1996 and to pay her the arrears on this account from 1.1.1990 within 3 months from the communication of this order. However, it is made clear that she would become ineligible for family pension from the date on which she gets married or she starts earning before attaining the age of 30. No relief is granted by way of interest or penalty.

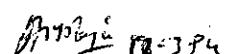
9. The O.A. is ordered accordingly at the admission stage itself. No costs.


(R.Rangarajan)
Member (Admn.)


(V.Neeladri Rao)
Vice-Chairman

Dated 2) Feb., 1994.

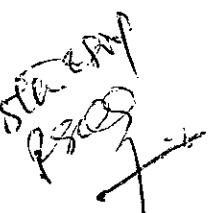
Grh.


Deputy Registrar (Judl.)

Copy to:-

1. General Manager, South Eastern Railway, Union of India, Garden Reach Calcutta-43.
2. The F.A.&C.A.O., South Eastern Railway, Garden Reach, Calcutta-43.
3. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-43.
4. The District Treasury Officer, Visakhapatnam (A.P.)
5. The Sub-Treasury Officer, Visakhapatnam, A.P.
6. One copy to Sri. P. Sri Raghuram, advocate, Plot No. 1361, Rd. No. 45, Jubilee hills, Hyd.
7. One copy to Sri. C.V. Mahba Reddy, Addl. CGSC, CAT, Hyd.
8. One copy to Sri. D. Panduranga Reddy, Spl. counsel for AP.
9. One copy to Library, CAT, Hyd.
10. One spare copy.
11. Copy to Reporters as per standard list of CAT, Hyd.

Ram/-



O.A. 202/94

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)
AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

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

Dated: 23/2/1994.

ORDER/JUDGMENT: *1st J.P.C. of*

M.A./R.A/C.A. NO.

O.A.No.

T.A.No.

202/94

(W.P.No.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions.

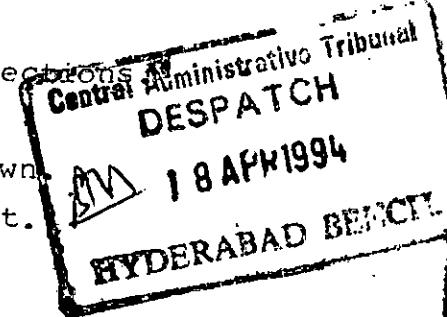
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.



pvm

3/16/94
3/16/94