

92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 661/95.

Dt. of Decision: 21-12-95.

Smt. G. Adilakshmi

.. Applicant.

Vs

1. The Divl. Railway Manager,
SE Rly, Visakhapatnam.
2. The Sr. Personnel Officer, (Construction),
SE Rly. Visakhapatnam.
3. The Chief Project Manager,
SE Rly, Visakhapatnam.
4. The Financial Advisor & Chief Accounts
Officer, (S&C) SE Rly, Visakhapatnam.

5) Smt. Karwan Lakshmi. .. Respondents.

Counsel for the Applicant : Mr. S. Ramakrishna Rao

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

Mr. P.B. Vijaya Kumar for R-S.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

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

94

O.A.No.661/95

Dt. of decision: 21/1/95

JUDGEMENT

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

The applicant is the widow of one Sri G.Appa Rao who was working as a P.W.I Gr.III at Visakhapatnam in S.E. Railway and expired on 13.12.94 when he was in service.

Late Sri Appa Rao married Smt. Atchiyamma in the year 1963 and she expired in the year 1965 leaving behind a 10 months old baby named Ms. Lakshmi who is impleaded as R-5 herein. Late Sri Appa Rao had married the sister of his first wife on 20.2.70 (applicant herein) and through her had two children - a son now aged 22 years and a daughter - now aged 20 years who is yet to be married. Sri Appa Rao married off his daughter through his first wife (R-5 herein) to a Group-D Telecom employee working at Visakhapatnam.

She is aged 30 years at the time of filing this O.A.

2. The applicant applied for the final settlement dues of her husband comprising of family pension, P.F., gratuity, Group Insurance amount and leave salary. The leave salary amount of about Rs.23,000/- ^{has} ~~new~~ been paid. But before settling the other dues indicated above, there was a counter-claim from R-5 for payment of the final settlement dues to her instead of the applicant. R-5 had also issued

33

a legal notice to the respondents for payment of the final settlement of her late father.

3. While the respondents were examining the case for settling the issue, the applicant herein filed this O.A. for a direction to the respondents to release the settlement dues, of her husband viz. P.F., Gratuity, Group Insurance amount, Family Pension bonus and other amounts due treating her as the only legal heir of her husband entitled to receive the above benefits, having dependant children (especially marriageable daughter).

4. At the time of admitting this O.A., by interim orders dt.25.5.95, R-4 was restrained from releasing the settlement dues towards P.F., gratuity, group insurance, bonus and any other amount due on account of the death of the husband of the applicant.

5. The whole issue has to be settled on the basis of the rules applicable in this connection. The respondents have filed the counter-affidavit dt.27.11.95 enclosing the nomination given for receiving the P.F. and also the connected rules in regard to payment of other final settlement dues. we will now take up the dues payable and also analyse the beneficiary for receiving those dues.

6. The recurring family pension under Family Pension Scheme, 1964 has to be paid in accordance with Rule 75

D

96

of Chapter VI of the Railway Servants Pension Rules, 1993. As per that rule it becomes payable to the widow of the deceased and that the daughter or son who had attained 25 years of age are not entitled to receive the family pension. R-5, who is the rival claimant in this case had already been married and is above 25 years of age as on the date of the death of the employee is as on 13.12.94, is not entitled to receive the family pension under Sub Rule 6(iii) of Rule 75 and explanation note (2) under Sub-rule (6) appearing under the Railway Servants Pension Rules, 1993. The above mentioned Rules read as below:

"75. Family Pension Scheme for railway servants, 1964:-

...
...

(6) The period for which family pension is payable shall be as follows:-

- (i)
- (ii)
- (iii) in the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier.

Explanation:-

- (1)
- (2) A daughter shall become ineligible for family pension under this sub-rule from the date she gets married. "

(Extract of Rule 75 is at R-16)

7. As per the above quoted Rule, we have already passed orders dt. 31.10.95 to the effect that R-4 can pass necessary orders for payment of Family Pension to the

30

applicant. Hence no further direction is necessary in this connection.

8. The next question that arises is as to who is entitled to receive the P.F. due of the deceased employee. The applicant though nominated his first wife for receiving his P.F., the same was revoked by him by a fresh declaration nominating Konnabathula Lakshmi, the daughter of his first wife by nomination dt.28.1.66 (Annexure R-7). Thereafter no other nomination has been made. The original PF nomination (Annexures R-6 and R-7) was also perused by us. There is no P.F. nomination in favour of the applicant. Hence the P.F. dues are to be paid to R-5 only and not to the applicant as per the extant rules. Hence R-5 is only entitled to receive the P.F. dues lying to the credit of the deceased Shri Appa Rao.

9. The Group Insurance Scheme, 1980 came into force w.e.f. 1.1.82. This scheme was in replacement of the Railway Employees Insurance Scheme in force from 1.7.77. The deceased did not opt out of the REIS Scheme and hence he is deemed to have become the member of the CGEGIS introduced w.e.f. 1.1.82. The deceased employee did not execute any nomination under this Scheme. The relevant rules in regard to the CGEGI Scheme, 1980 is annexed as Annexure R-12. The relevant Rule in regard to payment when an employee dies in harness may be seen at Para 19.10. This para reads as below:

D

99

"C.G.E.G.I.Scheme, 1980.

19.10 If a member of the Scheme dies without leaving behind a valid nomination, the nomination, if made under GPF/CPF Rules may be accepted for the purpose of this Scheme also. Where there is no nomination even for GPF/CPF accounts, amounts payable under this scheme shall be paid as follows:

- a) The entire amount may be paid in equal shares to widow/widows, minor sons and unmarried daughters provided that in the case of more than one widow the second and subsequent marriage were solemnised with the permission of Central Govt. In the case of minor sons and daughters their mother, who is not a Muslim Lady, shall be deemed to be the natural guardian to receive the amount due. Guardianship Certificate has to be produced by the minor sons and daughters of a Muslim Lady.
- b) In the absence of member(s) eligible under (a) above, payment may be made in equal shares to other members GPF (CS Rules, 1960 or CPF Rules (India), 1962.
- c) In the absence of member(s) eligible under (b) above also, payment may be made to other legal heir(s) not covered by items (a) & (b) above."

From the above Rule it is clear that when no valid nomination is made by the member of the Scheme, the amount payable under this Scheme, if the employee dies while in service goes to the nominee under GPF/CPF Rules. The respondents clearly state that the ex-employee did not nominate anybody to receive the amount under this Scheme. When there is no nominee, the amount due under the Scheme goes to nominee under GPF/CPF Rules.



29

10. As stated earlier, R-5 has been nominated as a P.F. nominee. Hence, the amount due under this Insurance Scheme is also payable only to R-5. The Sub-Rule (a), (b) and (c) under 19.10 has no relevance to this issue, as the Sub-Rule (a), (b) & (c) comes into play only if there is no nomination under GPF/CPF Rules.

11. The next payment is in regard to Death-cum-Retirement Gratuity (DCRG). No nomination has been made in this connection also. In the absence of any nomination, DCRG is payable to the family members ^{as} mentioned in Sub-rule (5) of Railway Servants Pension Rules, 1993. The term family means wife, sons including step-sons and adopted sons and unmarried daughters for the purpose of DCRG. They are the Class-I heirs. The respondent No.5 having already been married and living separately with her husband at the time of death of Late Sri Appa Rao, her father, is not entitled to receive the DCRG. Hence, DCRG which is payable in this case has to be paid to the applicant, her son and her unmarried daughter in equal shares in terms of Rule 71 of the RSPR, 1993. (The above quoted Rules 70 and 71 are annexed as R-15).

12. The learned counsel for R-5 submitted that the lump sum payment DCRG is comparable to the estate of the deceased and hence R-5 should also get a share under this head. But when the Rule is clear in this connection, we have to go only by



(160)

that Rule and cannot deviate from that Rule, unless that Rule is shown to be perverse/arbitrary, and hence challenged. As this Rule is not challenged, the DCRG has to be distributed as indicated above as per this Rule.

13. It is stated that the applicant had received a sum of Rs.22,598/- as leave salary against the accumulated leave to the credit of the deceased at the time of his death. The learned counsel for R-5 submitted that this lump sum can be termed as the property of the deceased employee, and hence R-5 though married is entitled to receive a share along with the applicant, her son and her unmarried daughter equally. The applicant shall get 1/4th the amount of leave salary of the deceased which had already been paid to the applicant. We do not think any necessity to produce Succession Certificate in this Regard by R-5.

14. As the leave salary has already been paid to the applicant, an amount equal to 1/4th the leave salary has to be deducted from the DCRG share of the applicant and that deducted sum has to be paid to R-5 as her share of leave salary.

and other amounts due. The applicant has not given any detail in regard to this item.

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Copy to:-

1. The Divisional Railway Manager, South Eastern Railways, Visakhapatnam.
2. The Sr. Personnel Officer (Construction), South Eastern Railways, Visakhapatnam.
3. The Chief Project Manager, South Eastern Railways, Visakhapatnam.
4. The Financial Advisor & Chief Accounts Officer, (S & C), South Eastern Railways, Visakhapatnam.
5. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyderabad.
6. One copy to Mr. N. R. Devaraj, Sr. CGSC, CAT. Hyd.
7. One copy to Mr. P. B. Vijaya Kumar (for R-5) CAT. Hyderabad.
8. One copy to Library, CAT. Hyd.
9. One copy spare.
10. One copy to All Reporters, as per Standard List of CAT. Hyd.

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160

16. The respondents have submitted in their counter affidavit that an amount of Rs.3,465/- towards wages for 13 days from 1.12.94 to 13.12.94 including T.A. for the month of October was paid to the applicant. The respondents also did not give any details in regard to the bonus dues etc. Hence, no definite direction can be given in the absence of any material and details. However, R-4 should settle the bonus and other dues, if any, as per rules.

17. In the result, the following direction is given:

(1) The Family Pension under the Family Pension Scheme, 1964 is payable to the applicant.

(2) PF dues in full have to be paid to R-5 as per the nomination of the deceased employee.

(3) The dues under Group Insurance Scheme, 1980 is payable to R-5 only as she is the nominee under GPF/CPF Rules ^{and} as there is no other nomination under the Insurance Scheme.

(4) The amount due under DCRG is payable only to the applicant, her son and unmarried daughter in equal shares, and

(5) R-5 should receive 1/4th of the leave salary which had already been paid in full to the applicant. Hence, an amount equal to 1/4th of the leave salary has to be deducted from the DCRG share of the applicant and that deducted amount has to be paid to R-5.

18. The O.A. is ordered accordingly. No costs. /

c
(R. Rangarajan)
Member (A)

Neeladri
(V. Neeladri Rao)
Vice Chairman

Dated 4-12-95

Arul
Dy. Registrar(Judl)

CA - 661/95

I COURT

TYPED BY *Done*

CHECKED BY

COMPARED BY *W.H.*

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.R.RANGARAJAN : M(A)

Dated *21-12-1996*

ORDER/JUDGMENT

M.A/R.A./C.A.No.

O.A.No.

L.A.No.

(w.p.No.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

