

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD

O.A.NO. 234 of 1996.

Between

Dated: 6.3.1996.

^N
K. M. Lalitha Kumari

... Applicant

And

1. The General Manager, South Central railway, Railnilayam, Secunderabad.
2. The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
3. The Chief Engineer, South Central Railway, Railnilayam, Secunderabad.

*x

... Respondents

Counsel for the Applicant : Sri. T.P. Acharya

Counsel for the Respondents : Sri. N.R. Devaraj, SC for Rlys.

CORAM:

Hon'ble Mr. R. Rangarajan, Administrative Member

Contd: ...2/-

C.A.234/96.

Dt. of Decision : 06-03-96.

ORDER

I As per Hon'ble Shri R. Rangarajan, Member (Admn.) I

The applicant in this OA is the only daughter of Late Shri K. Kuppaiah, who was working as IOW/Gr-I/CE/ OLS/SC in the office ~~of~~ under R-3. He died on 15-06-1991 while in service in railway hospital. His wife pre-deceased to him. It was stated by the applicant's counsel that Late Shri K.Kuppaiah does not have any son and the applicant is the only daughter and there is no other daughters also for him. His daughter is also married. It is further stated that the applicant has been given all the final settlement dues of Late Shri K.Kuppaiah ~~except~~ the leave encashment salary. The leave encashment salary of deceased railway employee can be given to his daughter/son in accordance with rules. This OA is filed praying for a direction to the respondents to relax the effective date of Board's letter No. F(E) III/LE1/1 dated 08-11-1993 and extend the benefit of the letter to the applicant and consequently direct the respondents to pay the cash equivalent of leave salary to the applicant within a specified time as decided in OA.No. 828/94 decided on 10-05-1995.

existing
at the time
of death of
the appli-
cant's
father

2. The Railway Board's letter No. F(E) III-84/LE-I/1, 02-02-1985 which was circulated under Serial Circular No.29/8 (Circular letter No. ~~P(R)~~420/III, dated 14/20-02-1985) indicate the beneficiary to the cash equivalent of leave salary of

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deceased employee who died in harness. But that letter does not indicate whether a surviving married daughter can also get the cash equivalent of leave salary if none of the other beneficiaries mentioned in the letter dated 02-02-1985 is available. It was further clarified by the Railway Board, vide letter No.F(E) III/84/LE1/1, dated 08-11-1993 circulated under SC Railway Serial Circular No.116/93 (Annexure-V to this OA) clarified that the cash equivalent to leave salary may be paid 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 dated 8-11-93 will be effective from 30-09-93.

3. In the present case, the applicant is the only surviving married daughter and there is nobody else to receive the encashment of leave salary of the ex-employee. But as per the clarification of the Railway Board's letter dated

The learned standing counsel contend 08-11-93 it ~~is~~ comes into effect only from 30-09-93 ~~whereas a~~

the applicant's father who was ex-employee of the SC Railway expired on 15-06-1991. Hence it is a matter of consideration

whether the clarification of Railway Board's letter dated 08-11-1993 will be applicable in this case or not. In a similar

case in OA.828/94 which was decided on 10-05-95 wherein I was a party to this ~~judgement~~ ^{it} judgement which was held that even if the employee died earlier to 30-09-93 the leave encashment of

/the clarification as per letter of Board dated 8.11.93 is not applicable in the present case

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salary can be given to the eldest surviving married daughter as per the clarification given in the Railway Board vide letter dated 08-11-93. The Relevant paragraph in regard to the above contention as discussed in the above mentioned CA is reproduced below:-

"Cash equivalent of leave salary is earned by the applicant's 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 08-11-93 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 30-09-93. There is no reason given for applicability of the rule only from 30-09-93. 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 dated 02-02-85 there can be no reason to deny the cash equivalent of leave salary to the married daughters of Sri Raghavaiah, though payment for married daughters is effective only from 30-09-93. 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 dated 2-2-85 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".

4. In view of the above the applicant who is the ~~only~~ surviving married daughter of late Shri K.Kuppaiah, ~~she~~ is entitled for receiving the encashment of leave salary of late Shri K.Kuppaiah in terms of letter dated 08-11-93.

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

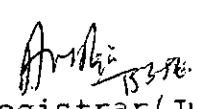
The encashment of leave salary of Shri K.Kuppaiah should be paid to the applicant within a period of three months from the date of receipt of a copy of this order.

6. The OA is ordered accordingly at the admission stage itself. No costs.



(R. Rangarajan)
Member(Admn.)

Dated : The 06th March 1996.
(Dictated in Open Court)


Deputy Registrar(Judl.)

~~Copy to:-~~

- 1- The General Manager, South Central Railway, Railnilayam, Secunderabad.
- 2- The Chief Personnel Officer, South Central Railway, Railnilayam, Secunderabad.
3. The Chief Engineer, South Central Railway, Railnilayam, Secunderabad.
4. One copy to Sri. T.P.Acharya, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, Sec. ~~case~~ for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

03/4/96

DA 234/96

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD.

HON'BLE SHRI ^{R. Rangarajan} ~~A. S. GORTHY~~ MEMBER(A)

~~HON'BLE SHRI~~

DATED: 6/3/96

~~ORDER/JUDGMENT~~

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

IN

234/96

O.A. NO.

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

* * *

Allowed with costs / 100

