

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR.

O.A.No.451/93

Dt. of order: 22.2.1994

Smt.Raj Kanwari Sharma

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.S.K.Chourasya

: Counsel for applicant

Mr.S.S.Hasan

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Member(Judl.).

Hon'ble Mr.O.P.Sharma, Member(Adm.)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant Smt.Raj Kanwari Sharma has filed this application under Sec.19 of the Administrative Tribunals Act, 1985, praying that she may be declared as entitled to minimum of family pension Rs.375/- with dearness pension <sup>the</sup> relief and with restoration of/ceased portion of family pension from 1.7.82 by virtue of notification dated 29.1.91 (Annx.A-3). She has further prayed that she may be granted interest at the rate of 13% per annum on the amount due to her.

2. The applicant's husband Shri Bhanwarlal Sharma, who had been employed for nearly 19 years in the Railways expired on 14.9.1971, while in service. The applicant's husband left behind the applicant as his widow and two daughters and one son from his predeceased wife. The family pension admissible on the husband's death was therefore paid in 2 shares, one share going to the applicant and the other to husband's children from his first wife. The children from the pre-deceased wife either got married or became major. Therefore, the 50% share of the family pension which was being paid to the children from the pre-deceased wife ceased to be paid w.e.f. 30.6.1982. However, even thereafter the applicant continued to be paid only 50% of the share of the family pension. The applicant's case is that in view of the instructions dated 29.1.91 (Annx.A-3) issued by the Department

of Pension & Pensioners' Welfare, Govt. of India, one-half portion of the family pension earlier being paid to the husband's children from the pre-deceased wife should not also cease but should be paid to the applicant.

3. The respondents in their reply have stated that the rules relating to pensions as applicable to the Railway employees are different from those applicable to other Central Govt. employees. The respondents have quoted para 801(10) of the pension scheme applicable to the Railways wherein it has been specified that where a railway servant or pensioner is survived by more than one widow, the pension shall be paid to them in equal shares. On the death of a widow her share of the pension will become payable to her eligible minor child. If at the time of her death a widow leaves no eligible minor child, the payment of her share of the pension will cease. Therefore, in view of this rule, one-half share of the family pension which had ceased on 30.6.82 will not be payable to the applicant.

4. During the arguments the learned counsel for the applicant produced before us a copy of Railway Board's letter dated 18.9.92 notifying an amendment to para 801(10) of the Manual of Railway Pension Rules, 1950. The amendment made thereby reads as follows:

"Where a deceased Railway servant or pensioner is survived by more than one widow, the pension will be paid to them in equal shares. On the death of a widow her share of the pension will become payable to her eligible minor child.

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal share, or if there is only one such other widow, in full, to her."

A copy of this letter was made available to the learned counsel for the respondents and it has also been taken on record.

5. In view of this amendment, the applicant will now be entitled to the entire family pension which was earlier being split into two parts and one-half of which had ceased

on 30.6.82. Since this amendment came into force w.e.f. 16.2.1991, the full family pension will become payable to the applicant with effect only from 16.2.1991. The respondents shall take necessary action in pursuance of these directions within two months from the date of the receipt of a copy of this order.

6. The O.A. is therefore partly allowed accordingly with no order as to costs.

  
(O.P.Sharma)  
Member (A).

  
(Gopal Krishna)  
Member (J).