

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00621/2014

DATE OF ORDER: 25.10.2016

CORAM

HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Ms. Madhu Yadava W/o late Shri Lal Krishan Yadava D/o late Shri Sajjan Singh Yadava, aged about 43 years, R/o Sr. L.I. Gali No. 6, House No. 169A, Ward No. 25, Rewari, at present residing at C/o Shri Surendra Singh Yadav, 248, Amar Nagar-C Near Khirni Phatak, Jaipur.

....Applicant

Mr. N.S. Chouhan & Mr. Saurabh Tiwari, counsels for applicant.

VERSUS

1. Union of India through the Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager (Personnel), North West Railway, Jaipur.
3. Senior Divisional Personnel Officer, North West Railway, Bikaner.

....Respondents

Mr. Anupam Agarwal, counsel for respondents.


ORDER

This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 aggrieved with order dated 12.12.2013 (Annexure A/1) whereby family pension has been denied to the applicant and thereby seeking the following reliefs: -

"In the facts and grounds mentioned hereinabove, it is respectfully prayed that this original application may kindly be allowed, relevant record may kindly be called for and be perused, if this Hon'ble Tribunal so pleases and by way of issuing appropriate order/direction the order letter/order dated 12.12.2013 (Annexure-A/1) may kindly be held

arbitrary and illegal and same may kindly be quashed and set aside. The respondents may kindly be directed to grant Family pension to the applicant in lieu of services rendered by her father late Shri Sajjan Singh. Arrears of Family pension may also be directed to be paid to the applicant along with interest @ 12% per annum."

2. When the matter came up for consideration and hearing, learned counsel for the applicant submitted that Shri Sajjan Singh, father of the applicant, was a substantive employee of the respondents Railways and retired on 30.11.1995 having served the Railways from 07.04.1959. He further submitted that the applicant got married with Shri Lal Krishan Yadava on 16.01.1992 i.e. prior to the retirement of her father on 30.11.1995. Therefore, father of the applicant did not mention her name in the Pension papers regarding Statement of Family Members (reference Annexure R/1 filed by the respondents) prepared at the time of his retirement, because at that time she was not dependent on him. Counsel for the applicant further submitted that the father of the applicant expired on 01.09.2003 and thereafter the PPO for family pension was issued in favour of her mother Smt. Shakuntala Devi. Unfortunately, the husband of the applicant expired on 27.11.2004 and thereafter she started living with her mother and became dependent upon her mother. Later, the mother of the applicant also expired on 26.09.2013, and therefore the applicant, being dependent daughter, submitted her Family Pension papers but the same have been rejected vide Annexure A/1 letter dated 12.12.2013 only on the ground that the applicant's name was not mentioned as daughter in the details of Family members in the relevant Pension papers as filled by the father of the applicant at the time of his retirement. In this regard, counsel for applicant clarified



that he has filed the Secondary School Marks-sheet of the applicant as Annexure A/10 with the rejoinder, which clearly shows that she is the daughter of Shri Sajjan Singh Yadav.

3. In this regard, counsel for the applicant with reference to the various circulars/OMs, drew attention to OM dated 22nd June, 2010 (Annexure A/7) issued by the Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioner's Welfare, New Delhi and specifically referred to para 3, which reads as under: -

"3. With a view to streamlining and cut delays in the pension sanctioning process, it is hereby clarified that in cases wherein eligibility of family members (i.e. divorced or widowed or unmarried daughter/ parents / dependent disabled siblings (i.e. brother/sisters) occurs after issue of the PPO, the pensioner himself or his/her spouse may intimate the details / names of divorced or widowed or unmarried daughter/parents/dependent disabled siblings (i.e. brothers and sisters), to the pension sanctioning authority as per the procedure indicated in para (1) above. Similarly, in cases where the pensioner or his/her spouse has expired, the widowed or divorced or unmarried daughter/ parents/ dependent disabled sibling can themselves intimate such details to the pension sanctioning authority. However, the family pension in such cases can be processed by the pension sanctioning authority even without such intimation / acknowledgement, if sufficient proof of entitlement is produced by the claimant and all other conditions for grant of family pension are fulfilled."

Further counsel for the applicant referred to paras 4 & 5 of OM dated 28th April, 2011 (Annexure A/8) issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioners' Welfare, New Delhi, which read as under:

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"4. Representations have been received in this Department from various quarters (i.e. Pensioners' Associations, etc.) to the effect that the claims for family pension of widowed/divorced/ unmarried daughters and dependent disabled siblings are not being entertained by certain Ministries/Departments on the plea that their names do not appear in the details of family members submitted by the

Government servant/Pension to the Head of Office from where he/she had retired. Besides, in cases where a Government servant/Pensioner had expired prior to the issue of above referred orders by this Department, the claims of widowed/divorced/unmarried daughters, etc. for family pension are not being entertained by Ministries/Departments on the plea that they were not eligible for family pension at the time of retirement/death of the Government servant or death of the Pensioner. This Department has been requested for issue of appropriate clarificatory orders in the matter so as to settle the family pension claims of the aggrieved widowed/divorced/unmarried daughters, etc., of the Government servants/Pensioners.

5. The matter has been considered in this Department in consultation with the Department of Expenditure, Ministry of Finance. It is hereby clarified that subject to fulfillment of other conditions laid down therein, the widowed/ divorced/ unmarried daughter of a Government servant/Pensioner, will be eligible for family pension with effect from the date of issue of respective orders irrespective of the date of death of the Government servant/Pensioner. Consequently, financial benefits in such cases will accrue from the date of issue of respective orders. The cases of dependent disabled siblings of the Government servants/Pensioners would also be covered on the above lines."


Counsel for the applicant also drew attention to OM dated 11th September, 2013 (Annexure A/9) issued by the Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners' Welfare, New Delhi and specifically referred to para 5, which reads as under: -

"5. As regards opening of old cases, a daughter if eligible, as explained in the preceding paragraph, may be granted family pension with effect from 30th August, 2004. The position is illustrated through an example. Shri A, a pensioner, died in 1986. He was survived by his wife, Smt. B, a son Shri C and a daughter, Kumari D, the daughter being the younger. Kumari D married in 1990 and got widowed in 1996. Smt. B died in 2001. Thereafter, Shri C was getting family pension, being disabled, and died in 2003. Thereafter, the family pension was stopped as Kumar D was not eligible for it at that time. She applied for family pension on the basis of O.M., dated 30th August, 2004. Since she was a widow and had no independent source of income at the time of death of her mother and on the date her turn came, she may be granted family pension. The family pension will continue only till she remarries or starts earning her livelihood equal to or more than the sum of minimum family pension and dearness relief thereon."




4. On the said basis, counsel for the applicant submitted that, as brought out earlier, after the death of father of the applicant (on 01.09.2003) and having become dependent on her mother, after the death of her husband on 27.11.2004, and after the death of her mother on 26.09.2013 she is fully entitled to the family pension and the same has only been rejected vide Annexure A/1 on the basis of an invalid ground. He contended that there was no opportunity/requirement for her father to show her as a dependent family member at the time of preparing the pension papers because at that time she was married when her father retired from Govt. service on 30.11.1995, and was clearly not a dependent, but after that her husband expired on 27.11.2004 she became fully dependent on her mother, and as her mother also expired on 26.09.2013, therefore, being a dependent widowed daughter of the deceased Govt. servant, she is entitled to the family pension and thus counsel for the applicant prayed that the family pension be granted to the applicant and that the O.A. be allowed.


5. Per contra, learned counsel for the respondents submitted, specially referring to the last sentence of para 3 of OM dated 22nd June, 2010 (Annexure A/7), as quoted above, that sufficient proof of entitlement is to be produced by the claimant and all other conditions for grant of family pension are to be fulfilled before family pension is processed by the pension sanctioning authority. Counsel for the respondents further submitted that, in the present case as brought out in the reply, the applicant has failed to demonstrate her entitlement and no proof has been given that she is actually the daughter of the deceased Govt.



servant and no mention of her has been made in the Statement of Family Members given by the deceased employee as at Annexure R/1. Counsel for the respondents also submitted that further nowhere the applicant has shown as to how she became dependent on her mother just after her husband died, and no documents to show that she was living with her mother as a dependent, have been given either to the respondents or even filed with the O.A. Counsel for the respondents submitted, with reference to the Annexure A/10 filed by the applicant with the rejoinder, that it is simply a marks-sheet stating that the name of the applicant is Kum. Madhumati and father's name is Sajjan Singh Yadav but it has nowhere been established that she is the daughter of Shri Sajjan Singh, who was the employee of the Railways. Therefore, counsel for the respondents contended that in the absence of clear establishment of the facts that the applicant is actually the dependent of Shri Sajjan Singh, who was the Railway employee working as Senior Loco Inspector (Diesel/Rewari) at the time of his retirement and further she became dependent on her mother, after her husband died on 27.11.2004 and therefore the circulars referred to by the counsel for applicant as at Annexures A/7, A/8 and A/9 do not come to her rescue and the Annexure A/1 order dated 12.12.2013 is fully justified and there is no ground for setting it aside, and prayed for the dismissal of the O.A. On query counsel for the respondents submitted that the aforesaid circulars issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioners' Welfare, New Delhi have been adopted by the Railways.



6. Considered the aforesaid contentions and perused the record. It appears that there are various provisions in the OMs / circulars at Annexures A/7, A/8 and A/9, as referred to above, issued by the Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners' Welfare, New Delhi, regarding family pension and entitlement of dependent widowed daughters for grant of family pension, who have become widow prior to the death of the Government servant or his/her spouse which have also been adopted by the Railways. However, as mentioned in para 3 of the Annexure A/7 OM dated 22nd June, 2010 (supra), the sufficient proof of entitlement is to be produced by the claimant and all other conditions for grant of family pension are to be fulfilled for processing the family pension by the pension sanctioning authority. However, as the name of the applicant does not figure in Annexure R/1, which is the Statement of Family Members and even Annexure A/10 marks-sheet does not fully establish that it is the marks-sheet of the applicant whose father was a substantive employee of the Railways, therefore in the present case, keeping in view the directions in the various OMs, specially para 3 of OM dated 22nd June, 2010 (Annexure A/7) it is essential that the applicant submits full details, papers and documents regarding being the daughter of the deceased Govt. servant i.e. Shri Sajjan Singh and that she fulfills other conditions specially regarding being dependent on her mother after the death of her husband on 27.11.2004, as averred in the O.A.



7. Therefore, considering the aforesaid facts and circumstances of the case, it is deemed appropriate to dispose of this Original Application with the certain directions as under: -

(i) The applicant is directed to submit details / relevant documents / information to the respondents to establish that she is a daughter of Shri Sajjan Singh i.e. the deceased Govt. servant, who worked with the Railways and also file an affidavit with supporting documents/proof to show that she was dependent and living with her mother after the death of her husband in the year 2004, at the earliest and preferably within two months from the date of receipt of a copy of this order.

(ii). If such relevant documents / information, etc. are furnished by the applicant to the respondents, as stipulated above, the respondents are directed to reconsider the case of the applicant in accordance with the Rules on the subject, including the various circulars / OMs (Annexures A/7, A/8 & A/9), as referred to by the applicant in the O.A., and other relevant provisions as applicable, and in the process may make any further inquiries as per laid down procedure, and also verify the facts from the record available with the respondents and decide her claim for family pension, within three months from the date of receipt of the relevant documents/information, etc. from the applicant.

The Original Application is disposed of as above with no order as to costs.



(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER