

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00497/2015

Order Reserved on: 17.11.2016

DATE OF ORDER: 20/12/2016

CORAM

HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Ram Kanwar wife of late Shri Rang Lal Bhati, aged around 80 years, R/o 549/26, Bheru Ji Ka Temple, Gurjarwas, Ajay Nagar, Ajmer.

....Applicant
Mr. Amit Mathur, counsel for applicant.

VERSUS

1. General Manager, North Western Railway, Jagatpura Road, Malviya Nagar, Jaipur.
2. Divisional Railway Manager, North Western Railway, Ajmer.

....Respondents
Mr. Anupam Agarwal, counsel for respondents.

ORDER

This O.A. has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 aggrieved from the communication dated 12.09.2014 given to her under Right to Information Act, 2005 wherein the family pension to the applicant has been declined on the ground that family pension is not admissible to a second wife, and thereby seeking the following reliefs: -

“(a) By an appropriate order or direction the communication Annex. A/1 dated 12.9.2014 may kindly be deprecated and the respondents may be directed to release the family pension to the applicant from the date of her entitlement including arrears and interest;

(b) Any other order which this Hon'ble Tribunal deems just and proper in the facts and circumstances of the case may also be passed in favour of the applicant.”



2. When the matter came up for hearing and consideration, Shri Amit Mathur learned counsel for the applicant, with reference to the averments made in the OA, submitted that Shri Ranglal Bhati husband of the applicant died on 16.07.1981 when he was posted as T.C.M. in the office of Senior Section Engineer (Tele), Ajmer in the Railways. At the time of death of Shri Ranglal Bhati, he had two wives namely Smt. Ucchav Kanwar and the applicant Smt. Ram Kanwar. Shri Ranglal Bhati married the applicant to look after the family because the first wife Smt. Ucchav Kanwar was mentally retired / retarded, and this was also accepted by her in legal proceedings. Counsel for applicant further submitted that the Court of District and Sessions Judge, Ajmer issued a succession certificate vide order dated 06th November, 1989 (Annexure A/2) in Civil Misc. Case No. 202 of 1986 by which the applicant was shown as the widow of the deceased Shri Ranglal and was given 1/7 share of the payable debts and 4/7 share was given to the first wife, Smt. Ucchav Kanwar and the remaining 1/7, 1/7 shares were given to her own children Shri Surendra Singh and Ms. Bina, who were minor at that time and shares were actually to be given to them on attaining the age of majority. The respondents-railways distributed and paid the said amount of Rs. 16,965/- as per the above succession certificate. However, none from the family members at that time applied for family pension i.e. neither Smt. Ucchav Kanwar nor the applicant. In this regard, counsel for the applicant submitted that as the first wife Smt. Ucchav Kanwar was mentally retarded and has been missing from 1992 (for which FIR was also lodged) and even her whereabouts are not known and the applicant had young children and being illiterate lady she could not

apply for family pension immediately. However, after some time she made representations and also applied for family pension again vide Annexure A/4 dated 17.07.2013, and vide Annexure A/3 letter dated 21.03.2014, the respondents also asked the applicant to give certain information whether family pension is being given to any other member of the family and whether any case is pending in this regard in any Hon'ble Court. The applicant followed her case and when no information was received, she sought information under Right to Information Act, 2005 and she was informed vide Annexure A/1 communication dated 12.09.2014 that she cannot be given family pension as the second wife is not entitled to any family pension. Thereafter she sent another representation dated 18.05.2015 (Annexure A/6) giving all relevant details. Counsel for the applicant submitted that in the representations, the applicant has inter alia mentioned that she is pursuing the matter of family pension for long and even referred to representations sent from 1997 onwards to various authorities. Counsel for applicant also contended that as per sub rule 7(i)(a) of Rule 75 of Railway Services (Pension) Rules, 1993, the widows of the deceased railway employee are entitled to family pension in proportionate shares and the applicant is only claiming for 50% share of the family pension being the second wife and now widow of late Shri Ranglal Bhati. As the rules provide that the family pension is to be distributed proportionately between the surviving widows, the question of denying the family pension on the ground that she is the second wife is not legally valid and further as she has been declared as one of the successors of late Shri Ranglal Bhati (even though for the limited purpose of payment of certain debts payable by

the Railways) she is entitled for the family pension and prayed for the O.A. to be allowed.

3. Per contra, Shri Anupam Agarwal learned counsel for the respondents submitted that family pension is to be given only as per the PPO issued at the time of retirement / death of the railway servant and in this case Shri Ranglal Bhati died way back on 16.07.1981. The applicant did not move for any family pension right upto the year 2014 and therefore seeking the relief now for grant of family pension after the death of her husband in 1981 is clearly barred by limitation and in this context counsel for respondents relied upon the judgment of the Hon'ble Supreme Court in the case of Union of India and others vs. M.K. Sarkar reported in (2010) 1 SCC (L&S) 1126 and (2010) 2 SCC 59. Counsel for respondents further submitted that as brought out in the reply Shri Ranglal Bhati never informed the answering respondents by producing any legal documents about his marriage with the applicant, nor anything about the mental illness of the first wife or her being missing. The succession certificate (Annexure A/2) referred to by the counsel for applicant has been issued only for the limited purpose of settlement of debts and dues and there is no direction with regard to the family pension. Counsel for respondents also submitted that the applicant has not filed any rejoinder or controverted the reply and therefore on all these grounds no case is made out for grant of family pension to the applicant and prayed for the dismissal of the O.A.



4. In rebuttal counsel for applicant submitted that family pension is a recurring cause of action and in support of his contention he referred to the judgment of the Hon'ble Supreme Court in the case of M.R. Gupta vs. Union of India reported in 1995 SCC (L&S) page 1273. Further, counsel for applicant also relied upon the order of Central Administrative Tribunal, Mumbai, Camp at Nagpur in the case of Smt. Ganeshibai alias Sunderibai vs. Union of India and Anr. in OA No. 2133/2012 decided on 28th January 2014 to support the claim of the applicant and prayed for the O.A. to be allowed.

5. Considered the aforesaid contentions and perused the record and the judgments cited by the respective counsels. It is noted from the pleadings that Shri Ranglal Bhati who was employee of the railways died on 16.07.1981. Civil Misc. Case No. 202/1986 was filed in the Court of District and Sessions Judge, Ajmer by Smt. Uchav Kanwar widow of Shri Ranglal for a certificate under the Indian Succession Act, 1925 in respect of the debts of Rs. 16,965/- left by late Shri Ranglal payable by the Railways and vide order dated 06th November, 1989 passed by the Court of District and Sessions Judge, Ajmer in Civil Misc. Case No. 202/1986 (Annexure A/2) the applicant was given 1/7 share, 4/7 share was given to the first wife Smt. Uchav Kanwar and the remaining 1/7, 1/7 shares have been given to two minor children of the applicant which were actually to be given to them on attaining the age of majority. This certificate has no doubt been issued for the limited purpose for settlement of dues and collecting the debts left behind by late Shri Ranglal though it does mention the name of the applicant as widow of Shri Ranglal. The

counsel for the respondents has raised the objection on the ground of limitation that the claim has been filed by the applicant more than 30 years after the death of Shri Ranglal, which took place in the year 1981 and even no information was given to the respondents about the applicant's marriage to Shri Ranglal. However, with regard to limitation this matter can be seen more sympathetically because the applicant is about 80 years old lady and as averred in the OA the son by the first wife has already got the benefit of compassionate appointment and grant of family pension cannot be denied only on the basis of delay and limitation. On the question of merit, it is noted that sub rule 7(i)(a) of Rule 75 of Railway Services (Pension) Rules, 1993 provides that where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares and the applicant is claiming it on the basis of being Shri Ranglal's second wife and now a widow, though no full and concrete proof has been submitted about the legal validity of this marriage. It is further noted that in fact Annexure A/1 letter dated 26.08.2014 is an information under RTI and there is no clear cut separate decision of the respondents on the representation/application of the applicant Annexure A/4 dated 17.07.2013 and subsequent representation Annexure A/6 dated 18.05.2015.

6. In view of the above position and considering the facts and circumstances of the case, it is proposed to dispose of this O.A. with the following directions: -



(i) The applicant is directed to file a fresh detailed and comprehensive representation before the respondents regarding her claim for family pension especially showing the legal validity of her marriage with Shri Ranglal Bhati, within two months from the date of receipt of a copy of this order.

(ii) The respondents are directed to consider the fresh representation of the applicant, if so filed as above, and at the same time endeavour to trace the documents of Shri Ranglal, who was the employee of the Railways, especially regarding the position of PPO as issued at the time of his death.

(iii) The respondents are also directed to look into the record of the compassionate appointment, if any, of Shri Manohar Singh Bhati, who, as averred in the OA, is the son of late Shri Ranglal Bhati, by his first wife Smt. Ucchav Kanwar and specially see the consent letter, if any, given by the applicant for such compassionate appointment.

(iv) Thereafter, after making all required verifications from the applicant as well as from their own record, the respondents shall decide the claim of the applicant with a reasoned and speaking order regarding her claim for proportionate share of the family pension.

(v) As the respondents would be required to look into the old records, it is directed that they may decide the same preferably within four months from the date of receipt of representation from the applicant. If the applicant is found eligible, she may be sanctioned due family

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pension, but in view of the belated claim, payment be made, without any interest, from the date of the application for family pension filed in this O.A. i.e. Annexure A/4 dated 17.07.2013.

With these observations and directions, the Original Application is disposed of with no order as to costs.



(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

Kumawat