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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JABALPUR

Original Application No. 433 of 2006

Jabalpur, this the 30th day of August, 2006

Hon'ble Dr. G.C. Srivastava, Vice Chairman
Hon'ble Mr. A.K. Gaur, Judicial Member

Laxmibai, Wd/o. Mangoo Shankar, Malipura,
Vikramgarh Alot, Distt. : Ratlam (MP).

- Applicant

(By Advocate – Shri A.N. Bhatt
along with Shri C.P. Lashkare)

Versus

The Union of India & Ors. Represented by :

1. The General Manager, West Central Railway, HQ Office, Jabalpur (MP).
2. The Divisional Rail Manager, West Central Railway, DRM Office – Kota (Raj).

- Respondents

ORDER

By A.K. Gaur, Judicial Member –

By filing this Original Application the applicant has claimed the following main relief:

“8.1 The orders passed by the respondent No. 2 as Annexed – A/1 and A/2 may kindly be quashed,

8.2 The respondents may kindly be directed to extend the benefit of family pension and other allied pensionary benefits with interest,

8.3 All the settlement dues like – Provident Fund with interest, Gratuity, Insurance, Leave Encashment etc. be paid with interest,

8.4 All consequential benefits including interest on the delayed payment and its arrears may kindly be allowed.”

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2. The brief facts of the case as stated by the applicant are that her husband, Mangoo Shankar, who was working as Gangman at Vikramgarh, Alot, expired on 8.1.1981 due to illness. It is alleged on behalf of the applicant that she is illiterate, village lady and unaware of procedures, rules and regulations. She had submitted an application for payment of family pension and all settlement dues in time, but till date no action has been taken by the respondents. Being aggrieved by the action of the respondents, the applicant had earlier filed OA No.588/2002 before this Tribunal and the same was disposed of at the admission stage itself vide order dated 18.2.2003 with a direction to the respondents "to consider the representation of the applicant of 28.2.2000 and pass a reasoned and speaking order". In compliance with the above order of the Tribunal, the respondents vide order dated 26.3.2003 have passed the following order:

"श्री मांगू का स्वर्गवास दिनांक 08-1-81 को हुआ था एवं आपकी ओर से मृत्यु प्रमाण पत्र पीछले 20 वर्षों में प्रेषित नहीं किया गया है क्योंकि मृत्यु प्रमाणपत्र ही दिनांक 08-11-2001 को जारी हुआ है चूंकि यह प्रकरण 23 वर्ष पुराना हो चुका है अतः अब रिकार्ड की अनुपलब्धता के कारण जॉच किया जाना सम्भव नहीं हो पा रहा है"

Hence, this Original application.

3. Heard the learned counsel for the applicant. We have perused the impugned order dated 26.3.2003 passed by the D.R.M., Kota. We find that the respondents have rejected the claim of the applicant only on the ground of non-availability of records on account of the case being 23 years old and have not at all considered the case of the applicant on merits.

4. In respect of the delay in filing claim, we may rely on the decision of the Hon'ble Supreme Court in the case of **S.K.Mastan Bee Vs. General Manager, South Central Railway and another, 2003 SCC (L&S) 93**. The facts of the said case are as under:

"the appellant's husband was a Gangman in the Railways. He died in 1969 while in service. In 1991 the appellant made an application for grant of family pension which was



rejected by the Railways in 1992. Then she filed a writ petition on which a Single Judge of the High Court directed the Railways to fix and pay the family pension to the appellant, according to the Rules, with arrears w.e.f. the date of death of the appellant's husband. A Division Bench, while upholding the appellant's right to family pension, held that there were some laches on her part in approaching the court. Therefore, it applied the principle of law of limitation applicable to suits and confined the retrospective benefit given by the learned Single Judge to a period subsequent to 1-4-1992, the date on which a legal notice was given by the appellant. In the instant appeal by special leave, the appellant challenged the said restriction on her right to receive pension from the date of her husband's death. The respondent Railways contended that the delay in approaching the court was so large that it was not a fit case for the exercise of the discretionary remedy under Article 226".

Their lordships in the said case have held as under:

"It is on record that the appellant is an illiterate who at the time of her husband's death did not know of her legal right to family pension and the remedy to enforce her such right. On the death of the husband of the appellant, it was obligatory for her husband's employer viz. the Railways in the present case, to compute the family pension payable to the appellant and offer the same to her without her having to make a claim or without driving her to a litigation. The very denial of her right to family pension amount to a violation of the guarantee assured to the appellant under Article 21. The factum of the appellant's lack of resources to approach the legal forum timely is not disputed by the Railways. In view of the said obligation of the Railways and also in view of the fact that her husband was only a Gangman in the Railways who might not have left behind sufficient resources for the appellant to agitate her rights and also in view of the fact that the appellant is an illiterate, the Single Judge was justified in granting the relief to the appellant from the date from which it became due to her, that is the date of the death of her husband. The Division Bench fell in error in restricting that period to a date subsequent to 1-4-1992."

5. After taking into account the facts of the present case and those of S.K.Mastan Bee (supra), we are of the considered view that the decision in the case of S.K.Mastan Bee (supra) substantially covers the issue relating to the delay in the present case. Therefore, the present OA is liable to be disposed of at the

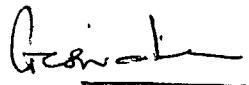




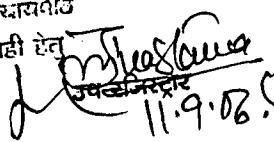
admission stage itself even without issuing notices to the respondents.

6. In the result, the OA is disposed of at the admission stage itself. The respondents are directed to examine the case of the applicant on merit, by reconstructing the records (irrespective of the fact that orders dated 26.3.2003 (annexure A-2) and 30.11.2005 (annexure A-1) had already been passed by the competent authority), and if she is found eligible, grant her all the retiral dues payable to her within a period of six months from the date of receipt of a copy of this order. No costs.


(A.K. Gaur)
 Judicial Member


(Dr. G.C. Srivastava)
 Vice Chairman

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प्राप्तिक्रम सं. ओ/न्या..... जबलपुर, दि.....
 प्रतिनिधि अवृत्ति : -
 (1) गविल, उद्य न्यायालय बांद एसोसिएशन, जबलपुर
 (2) आकेशवंशी/श्रीमती/पुत्र के काउंसल
 (3) प्रत्याधी श्री/श्रीमती/पुत्र के काउंसल
 (4) व्यापाल, उद्य ओ/न्या, जबलपुर न्यायालय
 सूचना एवं आवश्यक कार्यवाही देने
 D. N. Bhatt
 Atul Rattan
 R. J. J. O.
 11.9.08

 (With copy of OA)

Issued
 on 11/5/08

