

Central Administrative Tribunal
Jabalpur Bench

OA No.428/05

Jabalpur, this the 7th day of December 2005.

C O R A M

Hon'ble Mr.Madan Mohan, Judicial Member

1. Ku.Sudha
D/o T. Permanand
R/o 1105, Gali No.23, Sadar Bazar
Jabalpur.

2. T. Pradeep Kumar
S/o Late T. Premanand
Mentally disabled person
Through his guardian real elder sister
Ku.Sudha
D/o late T. Permanand
R/o H.No.1105
Street No.23
Sadar Bazar
Jabalpur.

Respondents.

(By advocate Shri M.K.Sanghi)

Versus

1. Union of India through
Its Secretary
Ministry of Railway
New Delhi.

2. Divisional Railway Manager
Central Railway
Jabalpur.

Respondents.

(By advocate Shri S.P.Sinha)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:



- (i) Direct the respondents to release the family pension of late employee T. Permanand in favour of the applicants as per Family Pension Scheme, 1964.

2. The brief facts of the case are that the father of the applicants Shri T. Permanand retired from service and got pension from respondent No.2. He died on 11.12.2000, leaving behind his widow, 3 daughters and 2 sons. Two daughters namely, Ku.Shobha and Ku.Prabha are already married and the elder son T.Prakash Narayan died on 17.1.99. Therefore, the widow and the applicants were getting the family pension. The mother of the applicants Smt.Anusiya Bai also expired on 3.11.2001 leaving behind applicants 1 & 2. Applicant No.2 T.Pradeep Kumar is totally mentally handicapped. After the death of Smt.Anusuiya Bai, the family pension was not released to the applicants. Therefore, Ku.Sudha, applicant No.1 being elder sister of applicant No.2 wrote an application to respondent No.2 on 20.11.2001 to release the family pension in the name of applicant No.2- T.Pradeep Kumar - as he is entitled to get the same as per rules. As required by respondents, she also submitted the death certificate of her late father and the birth certificate of applicant No.2 to the respondents. However, the respondents took no action in that regard. Having failed to get the family pension in the name of the mentally retarded T.Pradeep Kumar, an OA No.188/2003 was filed before the Tribunal which was disposed of vide order dated 31.3.2003 directing the respondents to consider the case of applicant No.2 for family pension as per the Family Pension Scheme. Thereafter, the representation of applicant No.2 was rejected on the ground that the name of applicant No.2 is not mentioned as mentally disabled in the records of family pension either by the deceased employee or by his wife at any time. The applicants are entitled to get the family pension as per the Scheme of the Central Govt. but the respondents are denying the benefits to the applicants. Hence this OA is filed.



3. Heard learned counsel for both parties. It is argued on behalf of the applicants that the respondents had acted illegally against the settled scheme of the Central Govt. in disallowing the claim of applicants. Applicant No.2 is a mentally disabled person and his name is also mentioned by his mother in the form of application for grant of Family Pension Scheme 1964 (Annexure A4). Therefore applicant No.2 is entitled to get the family pension as per law. He further argued that applicant No. 1 being unmarried and having no other source of income is also entitled to family pension.

4. In reply, learned counsel for respondents argued that the directions of the Tribunal in the earlier OA No.188/03 filed by applicant No.2 were complied with by passing a speaking and detailed order on 28.5.03. In the family particulars submitted by the late employee on 16.8.93, he had not stated that applicant No.2 was a handicapped person. Hence on his death, the family pension was sanctioned to his widow Smt.Anusiya Bai as per nomination made by the employee. Also at the time of retirement, the late employee did not declare that his son T.Pradeep Kumar was mentally unsound. He did not state that any pension on the death of his wife would be payable to any other person as no other person was entitled to such pension on his death. Moreover, T.Pradeep Kumar became mentally unsound as per certificate-dated 14.8.01 (Annexure A1) with 80% disability much after retirement of the railway employee and hence there is no question of grant of disabled pension.

5. After hearing learned counsel for both parties and careful perusal of the records, I find that applicant No.2 - T.Pradeep Kumar - the son of the deceased employee, is 80% mentally retarded/handicapped, as is shown in the medical certificate dated 14th August 2001 (Annexure A1). I have also perused Annexure A4, which is a Form of Application for grant of pension. In this Form, the names of Smt.Anusuiya Bai, Ku. K.Sudha and Sh. Pradeep Kumar are mentioned and Pradeep Kumar is shown as handicapped. I have perused Annexure R-2 in which it is mentioned that the family



pension is also payable in the case of a widow or widower upto the date of death or remarriage; in the case of a son, until he attains the age of 25 years; and in the case of unmarried daughter, until she attains the age of 25 years or until she get married, provided that if the son or daughter of a railway servant is suffering from any disorder or disability of mind or is physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of 25 years, the family pension shall be payable to such son or daughter for life subject to the following conditions, namely:-

“(b) Before allowing the family pension for life to any such son or daughter, the sanctioning authority shall satisfy that the handicap is of such, prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Divisional Medical officer setting out, as far as possible, the exact mental or physical condition of the child”

6. Considering all fact and circumstances of the case, the applicant is directed to submit a certificate to the effect that apart from 80% mentally handicapped, he is ^{also} unable to earn his livelihood. This medical certificate is to be obtained from a medical officer not below the rank of a Divisional Medical Officer, as per rules, and he shall also submit proof to the respondents that he was mentally handicapped before the death of his father i.e. the deceased employee, namely T.Permanand, within a period of one month from the date of receipt of this order. If he complies with this, then the respondents are directed to consider his case for family pension within a period of three months from the date of receipt of the certificate to the effect that the applicant No.2 is unable to earn his livelihood and he was mentally handicapped before, the death of his father. The respondents are further directed to pass a detailed, speaking and reasoned order.

7. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

पृष्ठांकन सं. ०१०/नया.....जजलपुर, दि.....

प्रति, दि.....

(1) जजलपुर

(2) जजलपुर

(3) जजलपुर

(4) जजलपुर

सूचना के अनुसार.....

7/12/05

8/12/05

M. M. Mohan
S. P. Singh