

Central Administrative Tribunal  
Jabalpur Bench

OA No.846/05

Jabalpur, this the 27<sup>th</sup> day of October 2006.

CORAM

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

Smt.Mandakini Tambat  
W/o Shri Balkrishna Tambat  
R/o Tambat Ka Bada  
Shinde Ki Chhawani  
M.L.B. Road, Lashkar  
Gwalior.

Applicant.

(By advocate Shri J.Sharma)

Versus

1. Union of India through  
General Manager  
North Central Railway  
Allahabad.
2. Divisional Railway Manager (Personnel)  
North Central Railway  
Jhansi (UP)
3. Divisional Accounts Officer  
DRM Office  
North Central Railway  
Jhansi (UP).
4. Deputy Chief Engineer (Construction)  
Central Railway  
Gwalior (MP).  
Respondents.

(By advocate Shri S.K.Jain)

O R D E R

By A.K.Gaur, Judicial Member

By filing this OA, the applicant has prayed for the following reliefs:

- (i) The letter contained in A-1 be quashed with all consequential benefits and the respondents be directed to release the payment of family pension to the applicant

with effect from due date along with 18% interest thereon.

(ii) Respondents be further directed to make payment of 18% interest on the gratuity amount which was payable to the applicant in the year 2000 and the same has been paid to the applicant in May 2005 without any interest for no fault on her part.

2. The facts of the case in brief are that the son of the applicant Yashwant Balkrishna Tambat was posted as Fitter under respondent No.4 and while in service, he passed away on 26.12.2000. It is alleged that the deceased rendered more than 10 years qualifying service on a pensionable post. In the year 1987, within 2 years of his marriage, the said Yashwant Balkrishna Tambat divorced his wife-Smt Chitra Devi in an out of court settlement by mutual consent. It is further alleged that after the divorce, the whereabouts of Smt.Chitra Devi are not known and there is no issue out of this wedlock. The applicant being a widow and mother of the deceased employee claimed terminal dues including family pension of the said Yashwant Balkrishna Tambat. As per the demand of the respondents, the applicant submitted succession certificate issued by the civil court (A-3) to the respondents. After a series of representations and a legal notice, the respondents paid to the applicant part of the settlement dues like gratuity, provident fund etc. vide settlement dated 25.5.2005. However, service gratuity and DCRG were kept pending by the respondents and according to the applicant, these were released in May 2004. Inspite of repeated requests, the respondents did not take any action for release of family pension for the reason that the applicant did not produce the death certificate of Smt.Chitra Devi, as repeatedly demanded by the respondents. Aggrieved by the denial of family pension and interest on other delayed dues, the applicant has filed this OA.

3. Respondents have filed a detailed reply, contending that the action of the respondents in not granting the family pension to the applicant is legal. The deceased railway employee Yashwant Tambat had submitted his family particulars to the respondents on 23.9.93 in which he had shown Smt.Chitra Devi as his wife. As per the definition

of family given in Rule 70 (5) of Railway Services (Pension) Rules, 1993, wife of employee is at priority No.(i) whereas mother of employee is at priority No.(vii). As per the rules, the mother is not entitled to get family pension during the lifetime of wife and superseding other family members. The respondents have contended that the applicant has not submitted any document to the respondents showing that the wife of deceased employee is not alive. They have further contended that the deceased Yashwant Tambat was having eight years, two months and six days of qualifying service, which is not pensionable service. The respondents have denied that the whereabouts of Smt.Chitra Devi are not known. A perusal of Annexure R-III would reveal that Smt.Chitra Devi, the wife of the deceased employee, was with him in the year 1999. In para 4(v) of the reply, the respondents have submitted that the civil court issued the succession certificate to the applicant on producing surety of Rs.5000/- and a personal bond of Rs.85,000/- and they had paid the settlement dues to the applicant in pursuance of the succession certificate which was issued only for collecting the settlement dues.

4. We have carefully gone through the pleadings of the parties and heard the learned counsel on either side.

5. As per definition of family given in Rule 70 (5) of Railway Services (Pension) Rules 1993, the wife of the deceased employee stands at priority No.1 and the applicant who is the mother of the deceased railway employee stands at priority No.7. As per this Rule, when the wife is alive, the mother is not entitled for family pension at all. The applicant has failed to furnish any documentary evidence in order to establish that a valid decree of divorce has been granted in favour of deceased employee before 1987 except that bald statement

circumstances of the case, the applicant has failed to establish any ground for granting any of the reliefs.

6. In view of the above discussion, we find that the OA has no merits. Accordingly the OA is dismissed. No costs.

*A.K.Gaur*  
(A.K.Gaur)  
Judicial Member

*Dr.G.C.Srivastava*  
(Dr.G.C.Srivastava)  
Vice Chairman

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पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....  
प्रतिक्रिया अन्वेषित :—

- (1) संतोष, उत्तर व्यायालय वाई एसेजिरायन, जबलपुर
- (2) उत्तरायण श्री/श्रीमती/कुमा.....संस्कार
- (3) प्रदर्शनी श्री/श्रीमती/कुमा.....संस्कार
- (4) व्यायालय वेप्रेस, जबलपुर ला. अधीक्षित  
सचिवा एवं आवश्यक घटार्यालयी देखना

*D. K. Jain*  
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D. K. Jain

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31/10/06