

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 690 of 2004

Qualior this the 13th day of September, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Badrul Hussain, S/o. late S.K. Mehboob,
Aged about 31 years, R/o. Near Masjid,
R/o. Ganesh Talai, Khandwa. Applicant

(By Advocate – Shri V. Tripathi)

Versus

1. Union of India, through the General Manager, South Central Railway.
2. The Divisional Railway Manager (P), Hyderabad Division, South Central Railway, Hyderabad.
3. The Financial Advisor & Chief Accounts Officer, South Central Railway.
4. The Chief Medical Officer, Railway Hospital, Hyderabad Division, Lalguda, Hyderabad.
5. Divisional Railway Manager, Nander Division, South Central Railway, Nander. Respondents

(By Advocate – Shri M.N. Banerjee)

ORDER

By Madan Mohan, Judicial Member –

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



“(ii) direct the respondents to pay the family pension to Ku. Rehana Bee with a further direction to pay arrears of pension w.e.f. 6.5.1995 with 18% interest.”

2. The brief facts of the case are that the applicant is the elder brother of Ku. Rehana Bee. The father of the applicant Shri Mehboob was working as Driver Grade-C in the respondents' office. He retired from service on 30.11.1982 and he died on 30th April, 1983. After his death his widow Smt. Jannat Bee received the family pension till her death on 8th January, 1993. After her death her one minor son Shri Kayamul Hussain started receiving the family pension with effect from 9th January, 1993 till 5.5.1995 i.e. up to the age of 25 years. Thereafter, Ku. Rehana Bee became entitled to receive the family pension. She is 100% blind as per the certificate dated 14.7.2000 (Annexure A-2). Apart from this Ku. Rehana Bee is also suffering from the disease of Epileptic and she is unable to earn her livelihood. The applicant sent an application to the respondent No. 2 for payment of family pension to Ku. Rehana Bee on 11th August, 1997. The respondents directed to take Ku. Rehana Bee for medical examination in Railway Hospital, Lalguda for assessing her disability and producing the certificate not below the rank of medical officer. The applicant took Ku. Rehana Bee to the said Railway Hospital. She was examined and the certificate was issued on 22.7.2000 (Annexure A-6) mentioning that she is suffering from Bilateral optic atrophy and she is totally blind (100%). However, the family pension was not started by the respondents inspite of fulfilling all the formalities. The applicant received letter dated 29.11.2001 (Annexure A-7) whereby he was directed to bring the certificate from the DMO showing that Ku. Rehana Bee has lost her earning capacity also. The Uncle of the applicant took Ku. Rehana Bee on 1.1.2003 to the Railway Hospital, Lalguda for her medical examination and to obtain certificate from Senior Medical Superintendent, Lalguda. However, the senior medical superintendent, Lalguda has refused to issue any such certificate. A legal notice was also given to the



respondents but the same was not replied by the respondents. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.


4. It is argued on behalf of the applicant that the father of the applicant was an employee of the respondents Department and he retired from service and subsequently died on 30.4.1983. After his death his widow received the family pension. Thereafter the younger brother of the applicant received the family pension up to 5.5.1995. After 5.5.1995 Ku. Rehana Bee became entitled to receive the family pension as per examination conducted by the Senior Medical Officer of the Railway Hospital, Lalguda. She was found suffering from bilateral optic atrophy and was also completely 100% blind. Apart from it Ku. Rehana Bee is also suffering from the disease of Epileptic. Therefore, she is unable to do her daily routine works. She is under treatment of Dr. Munesh Mishra, MS of Shubham Hospital, Khandwa. Even then the respondents directed to obtain a certificate from the DMO to the effect that she has lost her earning capacity also. It is further argued on behalf of the applicant that Ku. Rehana Bee is totally 100% blind as per the certificate issued by the Railway Doctor in this regard. She is suffering from the disease of Epileptic. It is apparently clear that she is absolutely unable to do her daily routine work and she is fully dependent on the applicant to continue her daily routine life. Hence, this Original Application deserves to be allowed.

5. In reply the learned counsel for the respondents argued that Ku. Rehana Bee is entitled to receive the family pension if she obtains a certificate from the DMO that her physical disability renders her incapable of earning her livelihood, though she is 100% blind and is suffering from bilateral optic atrophy. The aforesaid certificate is required under the rules and Ku. Rehana Bee has not produced such certificate so

far while she was directed by the respondents. Thus, this Original Application deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that it is an admitted fact that the applicant is suffering from bilateral optic atrophy and she is also totally blind by 100% according to the report of the Medical Superintendent, Railway Hospital, Lalguada vide his certificate dated 18.7.2000. The respondents submitted that Ku. Rehana Been has not produced the necessary certificate from the DMO to the effect that her disability renders her incapable of earning her livelihood. R.B. The argument advanced on behalf of the applicant that Ku. Rehana Bee apart from 100% is also suffering from the disease of epileptic seems to be correct as a certificate is produced by the applicant in this regard of Dr. Munesh Mishra, MS of Shubham Hospital, Khandwa and this fact is not controverted by the respondents in their return. Epileptic is such type of disease which causes serious problems in the daily routine life and due to 100% blindness of Ku. Rehana Bee she is taken to the private Doctor or Doctor of the respondents' hospital either by her brother i.e. the applicant or by her uncle.

7. Considering all the facts and circumstances of the case we are of the opinion that the respondents be directed to conduct the medical examination of Ku. Rehana Bee, by the concerned DMO with regard to the fact that her physical disability renders her incapable of earning her livelihood. We do so accordingly. We further direct the respondents that while conducting the medical examination of Ku. Rehana Bee, they should also consider the fact that she is suffering from Epileptic. The said process be completed within a period of two months from the date of receipt of a copy of this order. If she is found unable to earn her livelihood then the family pension should be granted to her from the due date within the aforesaid period.



8. * Accordingly, the Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

प्रतिवेदन सं ओ/व्या..... जलपुर, दि.....

प्रतिवेदन में उल्लेखित -

- (1) सचिव, उच्च न्यायालय का कार्यालय, जलपुर
(2) आदेशक श्री/श्रीमती/श्री/श्रीमती
(3) प्रत्यक्षी श्री/श्रीमती/श्री/श्रीमती
(4) संलग्नक सं. 231 जलपुर, दि. 21-9-85

Shri V. Timpal ? HC J.P.
Shri M. Banerjee

21-9-85

उप-रजिस्ट्रार

21-9-85