

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,CIRCUIT COURT SITTING AT BILASPUROriginal Application No 741 of 2004Jabalpur, this the 21st day of April, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman

Hon'ble Mr. Madan Mohan, Judicial Member

Smt. P. Satyavati, aged
 About 58 years, widow of
 Late – P. Sanyansi Rao,
 C/o P. Durba Rao, Vasu
 Niwas, Near Satbahaniya
 Mandir, Deorikhurd, P.S.-
 Torwa, Dist.. Bilaspur

Applicant

(By Advocate – Shri A.K. Gupta)

V E R S U S

1. U.O.I. Through,
The General Manager.
S.E.C.R. Bilaspur.
2. The Senior Divisional Safety,
Officer S.E.C.R., Bilaspur
Bilaspur(C.G.)
3. The Senior Divisional
Personnel Officer, S.E.C.R.
Bilaspur(C.G.)
4. The Financial Advisor and
Chief Accounts Officer,
S.E.C.R., Bilaspur.(C.G.)
5. The Divisional Railway
Manager, S.E.C.R.,
Bilaspur.(Chhattisgarh)
6. The Cranch Manager, State
Bank of India, Railway
Colony Branch, Bilaspur
(Chhattisgarh) .

Respondents

(By Advocate – Shri M.N. Banerjee)



O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application, the applicant has sought the following main relief :-

“10.1 That Annexure A-1(Vide No.E/GE/SETT/OPTG/98, dated 29.02.2000) and Annexure A-2 (Vide No.E/GE/SETT/OPTG/98, dated 19.7.2001, may kindly be quashed and be declared as void.

10.2 That the Respondents may further be directed not to deduct any amount, as adjustment or excess payment from the gratuity of amount Rs.2,08,824/- deposited with the Respondent No.6 from account No.16823 operative in State Bank of India, Railway Colony Branch, Bilaspur.

10.3 That the respondents may further directed to pay penalty and interest amount against the delayed payment and illegal deduction.

10.4 The Respondents may further be directed not to adjust any amount from the pension already paid to the applicant.”

2. The brief facts of the case are that the applicant is wife of late P. Sanyasi Rao, who was head clerk in the office of the respondents. He fell sick during his employment and when he felt that it is difficult to recoup then he tendered his application to the respondents for retirement on medical grounds but that application could not be processed by the respondents and he died after one month and twenty days. The gratuity amount of Rs.2,08,824/- has yet not been paid to the applicant even after lapse of seven years. At the time of disbursement of other contributory ^{benefits,} leave encashment etc., she was paid the amount on the basis of death case but after about four and half years, the respondent no.1 has issued a letter dated 29.2.2000(Annexure-A-1) wherein it has been alleged that the case has been dealt wrongly as death case instead of retirement on medical ground and apart from this a letter dated 19.2.2001(Annexure-A-2) has been issued in which a instruction was issued to the State Bank of



India, Railway Colony Branch, Bilaspur to deduct the amount of Rs. 1,13,166/- from account of the applicant which is arbitrary and irrational. The applicant should have been provided an opportunity of hearing before passing the impugned orders but it has not been done by the respondents. According to the applicant, the respondents are also deducting the usual relief from 21.7.1997 to 31.7.1997(sic) from the pension amount whereas, the observation of Annexure A-3 and A-4 reveals that this amount was not deducted at the first instance when the pension amount was being paid to her. The respondents did not refer her husband to medical board and he was never examined by the doctor's of Railway Medical Board and no report regarding medical unfitness of late P.Sanyansi Rao was submitted to the respondents. The whole action of the respondents is arbitrary and illegal. Hence, this OA.

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


4. The learned counsel for the applicant argued that due to sickness during service, the husband of the applicant late P.Sanyansi Rao has tendered his application to the respondents for retirement on medical ground but the application could not be processed by the respondents. At the time of disbursement, the amount was paid to the applicant on the basis of death case, but subsequently the impugned orders were passed by the respondents intimating the applicant that her case was wrongly dealt ^{with} as death case instead of retirement on medical ground and vide letter dated 19.7.2001, informed the concerned bank to deduct the amount of Rs.1,13,166 from her account. The learned counsel for the applicant further argued that before deducting the said amount, the respondents did not inform the applicant and she was not given any opportunity of hearing. He also argued that the respondents have not referred her husband before medical board and he was never examined by the doctor's of the



Railway Medical Board, therefore, the question of retirement on medical ground does not arise at all. Hence, the whole action of the respondents are apparently irregular and illegal.


5. In reply, the learned counsel for the respondents argued that the husband of the applicant late Shri P. Sanyasi Rao had submitted an application enclosing medical certificate which was issued by Chief Medical Director, South Eastern Railway, Garden Reach Kolkata dated 31.7.97 for voluntary retirement on medical ground. The husband of the applicant was declared unfit in all categories of service in Indian Railways as there was no chance of further recovery with treatment. The learned counsel for the respondents further argued that as per the medical certificate he retired on 31.7.97 and his case was processed to extend him all monetary and other permissible benefits, but before making any payments he died on 21.9.97 and it has been done only after one month and twenty days from the date of his voluntary retirement. Hence, his settlement case was wrongly processed as death case instead of retirement on medical ground. The above said wrong process was observed during the course of internal checking done by the Associated Accounts department and the same error was rectified and finally makes ^{the} all payments due to be paid to ex-employee retired on medical ground. It does not arise to seek any clarification from the applicant in this regard. The husband of the applicant had submitted his application for voluntary retirement enclosing with a medical certificate issued by the Chief Medical director, South Eastern Railway, Garden Reach Kolkata and further argued that under the aforesaid circumstances, the question does not arise to send the ex-employee before the medical board for further medical examination. Hence, the action of the respondents is perfectly legal and justified.

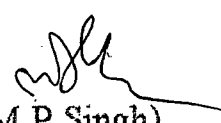
6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the husband of the applicant late



Shri P.Sanyansi Rao moved an application along with medical certificate issued by the Chief Medical Director, South Eastern Railway, Garden Reach Kolkata for his retirement on medical ground due to his sickness and it was accepted as the employee was declared unfit in all categories of service in Indian Railways as there was no chance of further medical examination seems to be correct. The husband of the applicant was retired on 31.7.97 and he died on 21.9.97. Due to wrong processing the respondents treated the deceased employee case as death case while he was retired on medical ground and they rectified this mistake accordingly. As the husband of the applicant applied for retirement on medical ground supported by medical certificate issued by the competent doctor, this fact was well within the knowledge of the applicant herself. Hence, she cannot say that the respondents have not given any opportunity of hearing while issuing the impugned orders. The respondents are perfectly correct in rectifying their mistake about wrong processing the matter of the deceased employee. We find that the husband of the applicant retired on medical ground w.e.f. 31.7.97 and subsequently expired on 21.7.97. Hence, the applicant is not entitled for any relief.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA deserves to be dismissed. Accordingly, the OA is dismissed. No costs.


(Madan Mohan)
Judicial Member


(M.P. Singh)
Vice Chairman