

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

original Application No. 289 of 2003

Jabalpur, this the 6th day of April, 2004

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

Ku. Neelam Singh, D/o. Late VMK Singh,
aged about 30 years, resident of
through legal / natural guardian Shri
Vijay Singh son of late VMK Singh, aged
about 57 years, resident of 719, West
Ghamapur, Jabalpur. ... Applicant

(By Advocate - Shri Saleem Rehman)

V e r s u s

1. Union of India, through
Chairman, Railway Board, Rail
Bhawan, New Delhi.
2. The General Manager, West
Central Railway, Jabalpur.
3. Divisional Railway Manager,
West Central Railway, Jabalpur. ... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R (oral)

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

"I. That the Hon'ble CAT may be pleased to grant
family pension to Ku. Neelam Singh as she is 70%
mentally retarded and does not have any other source
of income for her livelihood.

II. That the no applicants may be directed to
bring the name of Ku. Neelam Singh D/o. late VMK
Singh on record in order to avail the pensionary
benefits.

III. That all consequential benefits from the
date of the entitlement to Ku. Neelam Singh D/o.
late VMK Singh be granted."

2. The brief admitted facts of the case are that the
applicant's father late VMK Singh retired from the
Railway service on 30.6.1982, attaining the age of
superannuation. He expired on 2.6.2002. After the death
of the Government servant the brother of the applicant
has sent a certificate to the respondents to the effect

that his sister i.e. the applicant is mentally retarded and she should be granted family pension for her life. The respondents have rejected the claim of the applicant on the ground that during the service period of the deceased Government servant and even after retirement on 1982 till his death on 2.6.2002, the deceased Government servant has never mentioned about the disability of the applicant. According to them this is only an afterthought that the applicant has come with this certificate claiming family pension. Aggrieved by this the applicant has filed this OA claiming the aforesaid reliefs.

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

4. The learned counsel for the applicant has submitted that the applicant was mentally retarded since her birth. The Only mistake made by the applicant's father i.e. the deceased Government servant is that he did not report this fact to the respondents, although the applicant has been nominated by the deceased Government servant to receive family pension. To support his claim the applicant has relied on the judgment of the Hon'ble Supreme Court in the case of Bhagwanti Mamtani Vs. Union of India and Others, 1995 Supp (1) SCC 145.

5. on the other hand the learned counsel for the respondents submitted that the father of the applicant had never mentioned the fact that the applicant was mentally retarded, since his retirement on 30.6.1982 till his death on 2.6.2002. It is only after the death of the Government servant that the brother of the applicant has sent an application to the respondents for grant of family pension on the ground that his sister is a mentally retarded perso

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and therefore she should be granted family pension.

The respondents stated that this is a ~~wr~~ cooked story after deceased the death of the Government servant. He has also submitted that the judgment of the Hon'ble Supreme Court upon relied by the applicant is distinguishable and is not applicable to the present case. In that case, the issue involved was ~~that~~ whether the application of rule can be from a retrospective date, and about delay in claiming the family pension. The Hon'ble Supreme Court directed the respondents in that case to assess the disability of the appellant by the Psychiatry Department of the All India Medical Institute, New Delhi. It was not the question over there that the deceased Government employee has not disclosed about the disability of the nominee for family pension.

6. I have given careful consideration to the rival contentions made on behalf of the parties and I find that the father of the applicant had retired on 30.6.82 and expired on 2.6.2002. I find that the deceased Government servant neither during his service time nor even after his retirement till his death has disclosed the fact that his daughter is a mentally retarded person also and has not nominated her for receiving family pension after his death. It was only after the death of the deceased Government servant that the brother of the applicant has approached the respondents requesting them to grant family pension to the applicant on the ground of mental disability. The contention of the learned counsel for the applicant that the father of the applicant had nominated her to receive the family pension after his death as she was mentally retarded, cannot be accepted as he has not produced any supporting evidence. Therefore

the same is rejected. The judgment of the Hon'ble Supreme Court relied upon by the applicant is also not applicable to the present case. However, on humanitarian ground I direct the respondents to get the applicant medically examined by a duly constituted medical board and if she is found mentally retarded then they must consider to grant her family pension strictly in accordance with the rules and law within a period of six months from the date of receipt of copy of this order.

7. With these observations, the Original Application is disposed of. No costs.

M.P. Singh
(M.P. Singh)
Vice Chairman

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प्राप्तिकारी की विवरान अंतर्गत दिए गए

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(1) श. अमर कुमार राजपूत, अधिकारी

(2) श. अमर कुमार राजपूत, अधिकारी

(3)

(4) श. अमर कुमार राजपूत, अधिकारी

अधिकारी S. Rehman

अधिकारी M. N. Banerjee

*Ex-Sub
15/11/01*

मुख्य सचिव