

16

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00095/2014

Date of Decision : 06.08.2014

CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER

Smt. Mridula Mishra, widow of late Shri Baleshwar Mishra, son of late Shri Kedar Nath Mishra (Ex-Loco Care Taker, Loco-Ludhiana now deceased), resident of Quarter No.T-6/A, Station Colony Hussainpur Rail Coach Factory, Kapurthala (Punjab).

Applicant

Versus

1. Union of India through its Secretary to Government, Ministry of Railways, New Delhi.
2. General Manager, Northern Railways, Rail Bhawan, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Firozpur (Punjab).

.... Respondents

Present: Mr. Subhash Ahuja, counsel for the applicants
Mr. Lakhinder Bir Singh, counsel for the respondents

ORDER (Oral)
BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (i) the Tribunal may pass an order and issue appropriate directions directing the respondents to release the family pension and her / her children shares in the gratuity, leave encashment, provident fund and other death-cum-retiral dues to the applicant, being widow of late Shri Baleshwar Mishra,

u _____

Ex-Care Taker (now deceased) with interest @18% p.a. from the date these became due till their actual payment without any further delay in interest of justice."

2. Brief facts of the matter are that the husband of the applicant, one Shri Baleshwar Mishra, joined service in the respondent Department in 1983 as Class-IV employee and was lastly posted as Loco Care Taker, Ludhiana when he died while in service on 12.11.2011. The applicant is the second wife of above named Shri Baleshwar Mishra. His first wife – Smt. Anju Devi had died on 10.06.2002 leaving behind two minor daughters Ms. Neetu and Ms. Neha. The marriage of the applicant with Shri Baleshwar Mishra took place on 20.04.2006 and from their wedlock two children namely Master Vandan Mishra and Ms. Siddhi Mishra were born on 25.05.2008 and 30.12.2011 respectively. These facts were duly communicated to the respondents on the basis of which various certificates like Identity Card No.133973 and Certificate of Identity were issued to the deceased employee (Annexure A-2 and A-3). Till the date of death of her husband, both the daughters of his first wife were also being brought up by the applicant and were living with them at Hussainpur (Kapurthala) and studying in local schools. However, after the death of her husband both the daughters of ex-wife were taken away by their maternal uncle.

18 —

12

3. Averment has been made in the OA that the applicant is living in penury as she has no source of income, her claim for employment on compassionate grounds is pending consideration with the respondents and hence she has retained the accommodation allotted to her husband. Though she has been told by the respondents that she is entitled to family pension and the retiral dues such as gratuity, leave encashment and provident fund are to be divided between all the dependants of her husband, for which she has no objection, but inspite of having submitted a large number of representations for the release of family pension and other dues the same have not been released to her. Hence, this OA.

4. In the short reply filed on behalf of the respondents, it has been stated that the deceased had named his 1st wife Smt. Anju Devi and his two minor unmarried daughters from her namely Ms. Neetu and Ms. Neha the legal heirs as his nominees in his Provident Fund nomination. As per the report of the Chief Welfare Inspector, Ludhiana, the 1st wife expired on 10.06.2002 and on 20.06.2006 the employee had married Smt. Mridula, the applicant, from whom he had fathered a son Vardan and daughter Siddhi. The case for family pension had been processed and sent to the Accounts Branch on 06.08.2012. The payment of 50% of settlement dues of leave encashment Rs.87,048, Group Insurance Rs.26,784 and Provident Fund No.00147801-F for Rs.1,41,359 have

M _____

already been released in favour of the applicant and her children vide Account Bill No.83-BM dated 16.07.2012, No.59 AM dated 16.07.2012 and G-96 dated 27.06.2012 and No.59-F dated 25.10.2012. For the balance 50% share of the 1st wife's daughters, the Railway Administration has asked the children of the 1st wife to supply the guardianship certificate from the Court vide Annexure A-4 dated 23.08.2012, which is still awaited. Further, on 26.11.2012, an application under the Right to Information Act, 2005 was received from one Dharmender Verma, claiming to be guardian of Ms. Neetu, daughter from the 1st wife to which reply dated 22.01.2013 was sent (Annexure R-1).

5. In the rejoinder filed on behalf of the applicant, it is stated that she is not claiming or disputing the shares of the children of the 1st wife of her husband but inspite that the respondents were delaying the payments due to her on one pretext or the other.

6. When the matter was taken up for consideration on 24.07.2014, learned counsel for the respondents was directed to file status report in the matter, which has been taken on record today wherein it is stated as follows:-

"1. That on 31.07.2014, the family pension case of Smt. Mirdula Mishra has been approved vide calculation sheet dated 31.07.2014 (Annexure R-1/A) w.e.f. 12.11.2011, the date of death of her husband Sh. Baleshwar who had put in 23 years five months of qualifying service. She has been sanctioned

13

Rs.2,835 as family pension. Her share of Death-cum-Retirement Gratuity amounting to Rs.2,10,527 was withheld due to her non vacation of the Railway Quarter. Her share of the other retiral dues has already been disbursed to the applicant.

2. That the pension payment order to Punjab National Bank, Hussainpur, Kapurthala Account No.671900010000625 is under issue."

Since it is evident from the above that the family pension case has been approved and PPO is also under issue, the only point that remains for determination is the claim regarding interest on delayed payments. Learned counsel for the applicant pressed that since the applicant was a poor widow with no other source of income and had been managing for the last 2½ years through borrowed monies, interest on belated payment of the family pension should be allowed @18% per annum.

7. Having considered all the aspects of the matter, I am of the view that there has been avoidable delay in the release of family pension to the applicant as she being the widow of the deceased employee was the only claimant to the same and hence claim for interest is justified. While, it is accepted that 3 to 4 months are required for processing the pension papers in the case of a deceased employee, but delay beyond this cannot be accepted. Hence, since the husband of the applicant had expired on 12.11.2011, simple interest @ 8% per annum shall be payable to the applicant on account of delay in the release of arrears of family pension



(O.A.No.060/00095/2014)

16

15

w.e.f. 01.03.2012 till the actual date of such payment. The interest may be calculated on monthly accruals of the family pension due to the applicant and it may be ensured that the payment due to the applicant on this account is released within four weeks of a certified copy of this order being served upon respondent no.3.

**(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.**

Place: Chandigarh
Dated: 06.08.2014

SV: