

**CENTRAL ADMINISTRATIVE TRIBUNAL
AMHEDABAD BENCH**

**Original Application No. 163/2018
Dated the 30th day of August, 2018**

CORAM :

Hon'ble Ms. Archana Nigam, Member (A)
Hon'ble Sh. M.C. Verma, Member (J)

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1) Hasinabibi D/o Abdul Hakim Kalandr (Sheikh) aged 47 years,

2) Hazarabibi D/o Abdul Hakim Kalandr (Sheikh) aged 44 years,
Residents of Polan Bazar, Mohmadi Mohalla, Omlet-Ni-Gali,
Godhra – 389 008.Applicants

(By Advocate Ms. S.S.Chaturvedi)

VERSUS

1) Union of India notice to be served through General Manager, Western Railway, Churchgate, Mumbai – 100 010.

2) Divisional Railway Manager (E), Western Railway, Pratapnagar, Baroda – 390 004.

3) Senior Divisional Finance Manager, Western Railway, DRM Office, Pratapnagar, Baroda – 390 004.

4) Raziya D/o Abdul Hakim Kalandr (Sheikh) aged 45 years, resident of Polan Bazar, Mohmadi Mohalla, Omlet ni gali, Godhra – 389 008.Respondents

(By Advocate Ms.A.B.Makwana)

O R D E R (ORAL)
Per M.C.Verma, Member (Judicial)

Applicants and respondent No. 4 are sisters and instant O.A. has been preferred for modification of family pension order, settled in favour of Respondent No. 4.

2. Learned counsel Ms. S.S.Chaturvedi while pressing the O.A. submitted that applicants duo and respondent No. 4 are sisters and are daughter of Shri Abdul Hakim Kalandr, deceased employee of respondent-department. The said Shri Abdul Hakim Kalandr, the father of applicants and of respondent No. 4, while in service of respondents, died on 17.07.2004 and that matter of settlement of family pension was taken up by the respondents and, family pension was granted in the name of Smt. Sugrabibi, the mother of the applicants. The said Smt. Sugrabibi also died on 14.01.1980 and therefore, matter of settlement of family pension was again taken up. At that time, both the applicants and respondent No. 4 were claimants of family pension but respondent No. 4, who was eldest amongst the sisters, mis-lead her younger sisters and, thus consent to grant family pension in favour of respondent No. 4 was given, however, consent given by one of the applicant namely Hasinabibi. Learned counsel at this stage also submits that inadvertently it has been written in O.A., in para 4.3 that applicants have given consent but virtually it was only 1st applicant who, on the basis of assurance of respondent No. 4 that she would share amount of family pension with all sisters gave consent. Learned counsel seeks apology for wrong facts mentioned at para 4.3 of the O.A and urged further that though it is not correct that both sisters

have given consent even if, it is taken that both have done so, despite that, the O.A. is meritorious one and, may be allowed.

3. Learned counsel for applicant also referred copy of the JPO (Annexed with OA as Annexure A/7) and contended that para 10 of the JPO speaks that where deceased pensioner has left behind him more than one daughters surviving, family pension would be shared grant of family pension in favour of single daughter was not permissible and therefore also JPO needs modification. She also placed reliance upon the Railway Servants Pension Manual, specially Rule 75 and, submits that applicants gave representation to the Railway authorities but their representation was rejected mechanically. She assailing impugned order dated 30th January, 2018 (Annex.A/1 at page 12 of the O.A.) submitted that the language of it reflects how casually and mechanically it was disposed off. She requested to quash order dated 30.01.2018 and to direct the Railway authorities/respondents to modify the PPO granting family pension in equal share to both applicants and respondent No. 4.

4. Learned counsel Ms. A.B.Makwana, who appeared for respondents refuting the submissions of counsel for applicant urged that at the time of settlement of family pension both applicants gave consent for grant of family pension in favour of respondent No.4 and acting upon their consent, family pension was rightly settled in favour of respondent No. 4 and PPO was issued. She contended that there is no illegality in settlement of family pension in favour of respondent No. 4 and subsequently if some dispute arose in between the sisters, Respondents Authorities have no concern. She argued that on whims of the applicants no change in the PPO can be made at this stage.

5. Considered the submissions. Attention of learned counsel for respondents was drawn towards impugned order Annex.A/1 dated 30.01.2012 and, its language. Learned counsel fairly admits that it is not happily worded. The facts of the matter have elaborately emerged in the submissions quoted above, and refraining to reiterate suffice would it be, to say that the OA of applicants is for modification of family pension order, settled in favour of their sister, respondent No. 4. It is undisputed that settlement of family pension in favour of respondent No. 4 was done by official respondents on the basis of consent but whether both applicants gave consent or it is only one of them who gave the consent, is in grey area. The applicants requested the official respondents for modification of PPO, on ground that respondent No. 4 assured them of their share but is not giving them their share of family pension and in OA they have alleged that their representation was rejected in mechanical way.

6. The way in which said representation of applicants was handled, is perturbing one. Contents of impugned order dated 30.01.2018 read as under :

“ On compliance of Hon’ble CAT-ADI above cited above, the representation dt.04-10-16 is examined and advised that the request need by you under your representation dt. 04.10.16 is not considerable in accordance with pension rules. As per Para no. 75 (9) the eldest child is entitled to family pension where a deceased railway servant or pensioner lives behind more child than one and after the expiry of the eligibility period the next child becomes to the eligible to the family pension.

In this case, the Para 10 of JPO circulated vide HQ-CCG’s letter no. Pen/E/789/WREU/DHD/No Pen/05372 and E/789/FP dt. 26-07-13 is not applicable in this case.

In this case, it is observed that the family pension has been sanctioned in Kum. Razia at the intense no objection given by you in form of affidavit dully notarized on Rs. 10/- Non judicial stamp paper.

This is for your information please ”.

7. From language of the impugned order Annex.A/1, it is evident that the order was passed in casual and mechanical manner. It has been written

in the impugned order that representation is not ‘**considerable**’. Using of this terminology ”not considerable” indicates that representation was rejected summarily and without appreciation whether it is meritorious or not. The said fact that representation was not appreciated properly found corroboration from para 2 of impugned order as well. It has been written in said para that in this case, PPO circulated vide HQ-CCG’s letter no. Pen/E/789/WREU/DHD/No Pen/05372 and E/789/FP dt. 26-07-13 is not applicable. No reasons, whatsoever has been assigned as to why said Circular is not applicable.

8. In totality of facts and in interest of justice, it warrants that the Order, Annexure A-1, be quashed and matter be remanded back to official respondents to consider the same afresh and to decide the same as early as possible. At this stage, learned counsel for respondents submits that two months time may be given to the respondents to decide the representation. Considering the entirety of the matter and the request, the assailed order of O.A., dated 30/01/2018 (Annexure A/1 herein) is quashed and official respondents are directed to consider the representation of applicants, dated 4.10.2016 and to decide the same, on merits by passing speaking order, within two months.

9. With aforesaid observation and direction this O.A. stands disposed of. A copy of this order may be given to learned counsel for the parties.

[M.C.Verma]
Member (J)

[Archana Nigam]
Member (A)

