

ORAL

Central Administrative Tribunal, Allahabad Bench, Allahabad

Original Application No. 330/00421/2015

This the 14th day of February, 2018

Hon'ble Mr. Justice Dinesh Gupta, Member (J)

1. Km. Mamta d/o late Sukhnandan
  2. Rajat Kumar @ Akash s/o late Sukhnandan
- Both r/o House No. 11/50-A, Krishna Nagar, District-Kanpur.

Applicants

By Advocate: Sri Vinod Kumar

Versus

1. Union of India through General Manager, North Central Railway, Subedarganj, Allahabad.
2. The Divisional Railway Manager, North Central Railway, Allahabad.
3. Senior Divisional Finance Manager, North Central Railway, Allahabad.

Respondents

By Advocate: Sri P. Mathur

By Hon'ble Mr. Justice Dinesh Gupta, Member(J)

The applicant has preferred this O.A. under Section 19 of the Administrative Tribunals Act, 1985 with the following reliefs:-

- a) To issue an order or direction in the suitable nature quashing the impugned order dated 26.12.2014 passed by the respondent No. 2 (Annexure No.1 to the O.A. with compilation No.1).
- b) To issue an order or direction in the suitable nature directing the respondent authority to release the family pension in favour of applicant No. 2 w.e.f. the death of his mother within stipulated period as be specified by this Hon'ble Tribunal along with arrear of pension with 18% of market interest.
- iii) Issue any other suitable writ, order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
- iv) Award the cost of this Original Application to the applicant.

2. The brief facts emerging from the O.A. are that the father of applicant was working as permanent Railway Employee on the post of SPA-II and after the death of father of applicant, the mother of the applicant was getting family pension as per rules who also unfortunately died on 24.2.2006 leaving behind two daughters and one minor son namely Rajat Kuma @ Akash i.e. applicant no. 2.

2.1 After the death of parent, applicant No. 1 proceeded to obtain guardian certificate from the competent court of law, as the applicant No. 2 was quite minor at the time of death of mother. Additional District Judge Court No. 14 District Kanpur Nagar allowed the application of applicant No. 1 by appointing her as guardian of applicant No. 2 by means of order dated 22.1.2008.

2.2 Thereafter, applicant No. 1 submitted form No. 19 disclosing her family members showing the applicant No. 2 as minor and competent authority accepted the aforesaid form No. 19.

2.3 Being a legal guardian, the applicant No. 1 had submitted an application on 28.11.2008 claiming family pension upto the 25 years age of applicant No. 2. When no action was taken, applicant filed OA. No. 526 of 2014 which was disposed of by the Tribunal vide order dated 9.10.2014 (Annexure No. A-6) for deciding the claim of applicants in accordance with law.

2.4 In pursuance of the order passed by this Tribunal,, the respondent No. 2 passed an illegal order on 26.11.2014 rejecting the claim of the applicant stating therein that since the name of applicant and his date of birth are not matching with the declaration form No. 19, as the Akash is the son of the deceased employee but here in claimant is Rajat Kumar whose date of birth shown as 22.8.1992 whereas claimant No. 2 claims his date of birth as 22.6.1994.

2.5 So far as difference in the name of applicant No.2, the same has been certified on 22.2.2015 (Annexure No. A-9) by the Parshad namely Shakuntala Gupta of the Locality/ area that Rajat Kumar and Akash is the name of the same person and Akash is the nick name of the applicant No. 2 and on records his name is Rajat Kumar. Hence there is no any confusion or illegality in the name of applicant No. 2.

2.6 Applicant No. 1 again submitted an affidavit (Annexure No. A-10) before respondents requesting to release of family pension in favour of the applicant No. 2 as they have no source of income for their livelihood after the death of their parent.

2.7 The applicant No. 1 has also obtained succession certificate of deceased employee on 3.5.2007 (Annexure A-11) in which the applicant No. 2 is shown as minor son of deceased employee.

2.8 The applicant No. 1 has also obtained the Ration Card (Annexure No. A-11) in which the name of applicant No. 2 has been shown as minor son of late Sukhnandan and everywhere the date of birth of applicant No. 2 has been shown as 22.6.1994 showing the name of late Sukhnandan as his father.

3. Notices were issued to the respondents who in turn filed the counter reply and submitted that in compliance of the order passed by the Tribunal on 9.10.2014, they have passed the order dated 26.12.2014 and stated that based on the declaration submitted by deceased Smt. Premvati wife of late Sri Shukhnandan in form 19, since the name of Sri Rajat Kumar applicant No. 2 was not declared as son and Rajat Kumar whose date of birth as per other documents is 22.6.1994 and as such the claim of Sri Rajat Kumar was rightly rejected by the competent authority.

4. Heard the learned counsel for applicant Sri Vinod Kumar and learned counsel for respondents Sri P.Mathur.

5. The contention of the applicant is that respondents have rejected the claim of the applicant only on the ground that in the declaration form submitted by his mother, she has mentioned the name of applicant as Akash (minor u/m son) and date of birth is mentioned as 22.8.1992 along with two unmarried daughters Km. Mamta and Km. Sudha. It is further submitted that so far as difference in the name of applicant No.2, the same has been certified on 22.2.2015 (Annexure No. A-9) by the Parshad namely Shakuntala Gupta of the Locality/ area that Rajat Kumar and Akash is the name of the same person and Akash is the nick name of the applicant No. 2 and on records his name is Rajat Kumar. In

support of his contention, applicant No. 1 submitted an affidavit (Annexure No. A-10) before respondents requesting to release of family pension in favour of the applicant No. 2 as they have no source of income for their livelihood after the death of their parent. The applicant No. 1 has also obtained succession certificate of deceased employee on 3.5.2007 (Annexure A-11) in which the applicant No. 2 is shown as minor son of deceased employee. The applicant No. 1 has also obtained the Ration Card (Annexure No. A-11) in which the name of applicant No. 2 has been shown as minor son of late Sukhnandan and everywhere the date of birth of applicant No. 2 has been shown as 22.6.1994 showing the name of late Sukhnandan as his father. Learned counsel for applicant submitted that Rajat Kumar and Akash is name of the same person as such he is entitled for family pension.

6. Respondents have submitted that since mother of applicant had declared the name of Akash in her declaration form, as such the family pension cannot be granted to the applicant.

7. We are unable to accept the contention raised by the learned counsel for respondents.

8. From perusal of documents, it is clear that Aakash Kumar and Rajat Kumar is one person. Since the mother of the applicant was illiterate, she has mentioned the nick name of the applicant as Akash in the declaration form. Certificate issued by the Parshad and Ration card shows that name of father of Rajat Kumar is Sukhnandan. In case respondents have any doubt, they can depute a Welfare Officer to verify the facts in respect of actual status of the applicant and in case Welfare Officer gives a positive report and indicates that applicant is the actual son of deceased, then respondents shall consider the case of applicant for grant of family pension. This exercise shall be completed within a period of 2 months.

9. With the above observations, O.A. is disposed of. No order as to costs.

Justice Dinesh Gupta)  
Member (J)

HLS/-