

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

MA No.572/2017
OA No.1247/2016

Order Reserved on 03.08.2017

Pronounced on:18.08.2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

Anjali Puri,
(unemployed)
(Age about 68 years)
D/o Late Kundan Lal
H. No. 137, First Floor,
Nissan Hutt, N.H.S.S.
NIT,
Faridabad

-Applicant

(By Advocate: Ms. Jagrati Singh)

Versus

1. Ministry of Railways
Through
Secretary, Railway Board
Ministry of Railways
Rail Bhawan,
New Delhi.
2. The D.R.M.
Northern Railway,
Firozpur Division
Firozpur.
3. The General Manager
Northern Railway
HQ Office,
Baroda House
New Delhi.

-Respondents

(By Advocate: Shri Satpal Singh)

ORDER**MA No.572/2017**

The applicant, through the medium of this Miscellaneous Application (MA), has prayed for deletion of respondent no.1 from the array of parties in OA No.1247/2016. For the reasons stated in it, MA is allowed. Respondent No.1 is deleted from the array of parties. Consequently, respondent Nos. 2&3 would be rechristened as respondent Nos.1 & 2.

OA No.1247/2016

Through the medium of this Original Application (OA), the applicant has prayed for the following reliefs:

- “(i) To quash and set aside the order dated 12.01.2016,
- (ii) To direct the respondents to release the Family Pension to the Applicant.
- (iii) To grant 18% interest on the arrears.”

2. The factual matrix of this case is as under:

2.1 The applicant's father late Shri Kundan Lal Puri was working as Wireless Operator at Northern Railway, Firozpur. After attaining the age of superannuation, he died on 31.05.1962. After his death his widow late Smt. Leela Wati was sanctioned family pension w.e.f. 01.06.1962 vide PP No.P9/Pen/FZR580. She continued to receive the family pension till she died on 25.06.2004.

2.2 The applicant's contention is that she being unmarried and the only eligible sibling of late Shri Kundan Lal Puri for getting the family pension, should be granted the same by the respondents. In support of her claim, the applicant has pleaded the following important grounds:

i) The Department of Pension and Pensioners' Welfare OM dated 06.09.2007 (Annexure A-4) has extended the scope of family pension to unmarried daughters of Central Government servants/pensioners. As per this OM, unmarried daughters beyond 25 years of age, shall also be eligible for family pension at par with widowed/divorced daughter subject to other conditions being fulfilled.

ii) The Department of Pension and Pensioners' Welfare in its OM dated 02.09.2008 (Annexure A-5), at para 8.4 (c) dealing with categorization of family for the purpose of granting of family pension, has stated as under:

“(c) Unmarried/Widowed/Divorced daughter, not covered by Category I above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earliest”.

iii) As per Department of Pension and Pensioners' Welfare OM dated 28.04.2011, which was circulated by the Ministry of Railways (Railway Board) to all its Zonal Railways/Production Units vide OM dated 20.05.2011 (Annexure A-6), subject to fulfilment of other conditions, irrespective of the date of death of the government

servant, widowed/divorced/unmarried daughter and dependent disabled siblings of the government servants/pensioners will be eligible for family pension. The relevant para-5 of the OM dated 28.04.2011 of Department of Pension and Pensioners' Welfare is extracted below:

"5. The matter has been considered in this Department in consultation with Department of Expenditure, Ministry of Finance, it is hereby clarified that subject to fulfilment of other conditions laid down therein, the widowed/divorced/unmarried daughter of a Government servant/Pensioner will be eligible for family pension with effect from the date of issue of respective orders irrespective of the date of death of the Government servant/Pensioner. Consequently, financial benefits in such cases will accrue from the date of issue of respective orders. The cases of dependent disabled siblings of the Government servants/Pensioners would also be covered on the above lines".

iv) As per Department of Pension and Pensioners' Welfare OM dated 08.12.2011 (Annexure A-2) dealing with claim of a family member (other than spouse), if the name of the claimant member of the family is not available in the records, then a certificate issued at serial no.9(v) of Form 14 is to be accepted. The relevant para-2 of Annexure A-7 is extracted below:

"2. This is informed that the claims submitted by a claimant member of family (other than spouse) for family pension after the death of a pensioner/family pensioner, in Form 14 and supported by the death certificate and PPO of the pensioner/family pensioner, may be processed in consultation with the Pay and Accounts Officer, who is the custodian of the pension file which contains all relevant Forms and information of the pensioner. **In a very rare case where the name of the claimant member is not available in the records of the Head of Office as well as the Pay & Accounts Officer concerned and the claimant member also**

fails to submit a copy of PPO or Form 3 containing 'Details of Family' submitted earlier by the deceased employee/pensioner, the certificates prescribed at serial number 9(v) of Form 14 may be accepted. In addition to these certificates, PAN Card, Matriculation Certificate, Passport, CGHS Card, Driving License, Voter's ID Card and Aadhar Number may also be accepted. Acceptance of voter's ID card and Aadhar Number is subject to the condition that the pensioner/family pensioner certifies that he/she is not a matriculate and he/she does not have any of the documents mentioned in Form 14 or above. Apart from these documents, the Ministries/Departments may accept any other document submitted by the claimant, which may be relied upon and which establishes the relationship of the claimant with the pensioner and/or contains his/her date of birth".

v) The applicant had approached the DRM of Firozpur Division, Northern Railway for granting family pension to her in accordance with Annexure A-4 OM dated 06.09.2007 and submitted her application in the prescribed Form-14 (Annexure A-8). However, the DRM in his letter dated 12.01.2016, addressed to General Manager, Northern Railway, a copy of which was also marked to the applicant, had wrongly stated that the mother of the applicant had died on 25.06.2004 and the applicant being the 3rd beneficiary, does not fulfil the dependency criteria for grant of family pension and hence not eligible for the same.

vi) A certificate of identity issued by the Northern Railway (Annexure A-1) clearly indicates that the applicant is daughter of late Shri Kundan Lal Puri. The applicant is, therefore, entitled for the grant of family pension in terms of Annexures A-4 and A-5 OMs of Department of Pension and Pensioners' Welfare.

3. Pursuant to the notices issued, the respondents entered appearance and filed reply in which they have made the following important averments:

i) The applicant's father had not opted for pension and hence grant of family pension to her mother late Smt. Leela Wati w.e.f. 01.06.1962 was erroneous. The applicant's mother died on 25.06.2004 and the applicant being the 3rd beneficiary has claimed grant of family pension after over 09 years of her mother's death, for which she is not eligible. She also does not fulfil the dependency criteria.

ii) The service records of late Shri Kundan Lal Puri is not available as it is 64 years old case. The settlement file is also not available. As per rule PS 1666, the period prescribed for the preservation of records of settlement is 15 years.

4. On completion of the pleadings the case was taken up for hearing the arguments of the parties on 03.08.2017. Arguments of Mrs. Jagrati Singh, learned counsel for the applicant and that of Shri Satpal Singh, learned counsel for the respondents were heard.

5. The applicant's father late Shri Kundan Lal Puri died on 31.05.1962. Admittedly, after his death his widow late Smt. Leela Wati was sanctioned family pension w.e.f. 01.06.1962 and she continued to receive the family pension till she died on 25.06.2004. The contention of the respondents that since late Shri Kundan Lal

Puri had not opted for pension and thus grant of family pension to Smt. Leela Wati was erroneous, cannot be considered at this late juncture. No doubt, unmarried daughter of a deceased government servant/pensioner, in terms of Annexures A-4 and A-5 OMs of Department of Pension and Pensioners' Welfare is eligible for the grant of pension. The contention of the respondents that Annexures A-4 and A-5 OMs are not applicable to the Ministry of Railways (Railway Board) is not correct in view of their Annexure A-6 OM dated 20.05.2011. It is also not in disputed that the applicant is an unmarried daughter of late Shri Kunan Lal Puri. She is almost of 70 years old now (as per her affidavit at page 62, she was 66 years old on the date of the affidavit i.e. 21.10.2013).

6. The applicant's mother admittedly died on 25.06.2004. There is no explanation furnished by the applicant as to why she chose to claim family pension after 09 years of the death of her mother. The applicant's petition for family pension is dated 23.10.2013. If she was indeed in indigent condition, she would not have waited for 09 years for claiming the family pension.

7. The Hon'ble Supreme Court on the issue of inordinate delay in claiming one's right, in the case of **Ratan Chandra Sammanta & Ors. v. Union of India & Ors.**, [AIR 1993 SC 2276], has held as under:

“3. Delay itself deprives a person of big remedy available in law. In the absence of any fresh cause of action of any

legislation, a person who has lost his remedy by lapse of time loses his right as well.”

8. In view of the fact that the applicant has agitated her claim for family pension after an unexplained delay of 09 years and in the light of the ratio of law laid down by the Hon’ble Supreme Court in the case of **Ratan Chandra Sammanta** (supra), I do not find any merit in the OA and accordingly dismiss it.

9. No order as to costs.

(K.N. Shrivastava)
Member (A)

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