

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.66 /2016

Order Reserved on: 19.09.2018
Order Pronounced on: 26.09.2018

Hon'ble Ms. Nita Chowdhury, Member (A)

1. Smt. Vijaya Kumari Sharma,
Aged about 48 years,
W/o late Shri Suresh Chand Sharma,
2. Pankaj Kumar Sharma,
Aged about 26 years,
S/o late Sh. Suresh Chand Sharma
3. Sandip Kumar Sharma,
Aged about 24 years,
S/o late Sh. Suresh Chand Sharma
4. Sanjay Kumar Sharma,
Aged about 21 years,
S/o late Sh. Suresh Chand Sharma
5. Savita Sharma,
Aged about 20 years,
D/o late Sh. Suresh Chand Sharma
6. Ritu Sharma,
Aged about 18 years,
D/o late Sh. Suresh Chand Sharma,

All R/o H.No.894, Shiv Puri,
Vijay Nagar, Sector-9,
Ghaziabad, UP

- Applicants

(None)

Versus

Union of India through

1. General Manager,
Northern Railway,
Headquarters Office,
Baroda House, New Delhi

2. Divisional Railway Manager,
Northern Railway, DRM Office,
State Entry Road, New Delhi
3. Divisional Personnel Officer/Legal,
(Pension)
Northern Railway, DRM office,
State Entry Road, New Delhi
4. Smt. Raj Kumari,
D/o Sh. Sohan Pal Sharma,
R/o Village Kasumi,
Post Office-Sai,
Dist. Bulandsahar, Uttar Pradesh

- Respondents

(By Advocate: Mr. Kripa Shankar Prasad)

ORDER

When the matter is taken up for hearing, it is noticed that the reply has been filed way back on 23.03.2017 and since then, almost one year and six months has passed, the applicant has not filed his rejoinder. Today also, neither the applicant appears nor has he filed any rejoinder. In the circumstances, we are compelled to proceed with the matter under Rule 15 of the CAT (Procedure) Rules, 1985. MA No. 42/2016 for joining together in a single Application is allowed for the reasons stated therein.

2. The applicants, through the medium of this OA, has sought the following reliefs:-

- “a) That this Hon’ble Tribunal may be graciously please to allow this application and quash the impugned order dated 05.06.2013 passed by the Respondent No.3 in terms of which the claim of the applicants for grant of pensionary benefits and other benefits has been declined.
- b) That this Hon’ble Tribunal may be further pleased to direct the Respondents to consider the Family

Pension to be distributed proportionately in between applicant No.2 to 6 and Respondent No.4 or to be equally between the two widows of the deceased employee.

- c) That this Hon'ble Tribunal may further please to grant any other or further relief to the applicants as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- d) That this Hon'ble Tribunal may further please to award the cost of the proceedings in favour of the applicants and against the respondents."

3. It is the case of the applicants that they have made requests to the respondents to distribute family pension between the applicant nos. 2 to 6 and private respondent no.4, but the respondents have passed the impugned order 17.11.2015 whereby family pension is distributed in between the private respondent no.4 and the applicant no.4 only. In this regard, the applicants have relied upon the judgment of the Hon'ble Supreme Court in the case of **Vidhyadhari & Ors. v. Sukhrana Bai & Ors.** reported as (2008)2 SCC 237 in which it was held that the family pension be distributed proportionately in between the children of the deceased and the first wife.

4. Counsel for the respondents, first of all, drew attention to the fact that the issues raised in the present OA have already been agitated by the same applicants in their previous OA No. 2117/2013, which was disposed of by this Tribunal vide its detailed order dated 25.04.2014 with the following directions:-

"4. In view of the aforementioned rule position and the Succession Certificate issued by the learned Civil Judge

C.D. Ghaziabad, the OA is disposed of with direction to respondents to release the amount of arrears of pay (if any), gratuity and provident fund to the applicant nos. 2 to 4 as per the Succession Certificate and to release the pension to such of the applicants 2 to 6 and also to responded no. 3 in accordance with the rules and procedure, subject to completion of requisite formalities within three months. No costs.”

5. It is also noted that the applicants had also filed CP Nos.95/2015 and 307/2015 for non-compliance of the aforesaid order of the Tribunal, which, too, were disposed of on 10.12.2015 with the following observations:-

“2. In the compliance report dated 07.12.2015, the respondents have categorically submitted that the terminal benefits have been released to applicant Nos. 2 to 6 as well as respondent No.3 in the Original Application as per the directions issued by the Tribunal. The stand taken in the compliance report has not been disputed by the learned counsel for applicants. Nevertheless, he submitted that the proportion of family pension should have been released in favour of the applicants and respondent No.3 in a proportion different from one in which the official respondents have paid it to them.

3. While passing the Order, the Tribunal did not suggest any proportion to them. In the wake, we do not find any willful disobedience of the directions contained in the aforementioned order.

4. Contempt Petitions are accordingly disposed of. Notices issued to the respondents are discharged. No costs.

6. Counsel for the respondents also points out that the entire issue of grant of family pension and other settlement dues, as is based on the same facts, has already been decided. Hence, it is not open to the applicants to re-agitate the matter, as the same is hit by the principle of res judicata.

7. In view of the above, it is found that issues raised in the present OA have already been adjudicated by the Tribunal vide its order dated 25.04.2014 in OA No. 2117/2013 and the respondent – Railways have informed their compliance in the matter. The CPs filed against the said compliance by the applicants have already been closed, as no case for contempt has been made out. With clear cut orders, the Tribunal did not suggest any family pension proportion among the parties while passing the orders. In fact, the respondents have acted as per the succession certificate issued by Civil Judge, Ghaziabad and they were to release the amount of arrears of pay(if any), gratuity and provident fund, accordance with the rules and procedures, which they have duly done.

8. In view of the above observations, the OA is dismissed as the same is hit by the principle of res judicata. No costs.

(Nita Chowdhury)
Member (A)

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