

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00766/2016, OA/310/00960/2017 & OA/310/01312/2016

Dated 27th day of March Two Thousand Eighteen

PRESENT

HON'BLE SMT. B. BHAMATHI, Member (A)

OA 766/2016

Smt. S. Batha,
W/o. Late M.Selvaraj,
ASIPF, Loco Workshop,
Perambur, Southern Railway.
Residing at:
No. 115, Panambakkam Village,
Senji Post,
Thiruvallur Taluk and District.

....Applicant

By Advocate M/s. V. Subramanian

Vs

- 1.The Senior Divisional Security Commissioner,
Southern Railway,
Chennai 600003.
- 2.Union of India rep by,
The Chief Security Commissioner,
Southern Railway,
Chennai 600003.
- 3.The Chairman,
Railway Board,
Rail Bhavan,
New Delhi.
- 4.The Member Staff,
Railway Board,
Rail Bhavan,
New Delhi.
- 5.The Director,
Railway Protection Force,
Rail Bhavan,
New Delhi.

....Respondents

By Advocate Mr. D. Hariprasad

OA 960/2017

Smt. Tamil Pandi,
W/o. Late P. Ramamurthi,
12A/50, Indira Nagar,
Palani.

....Applicant

By Advocate M/s. Ratio Legis

Vs

- 1.Union of India rep by,
The General Manager,
Southern Railway,
Park Town, Chennai.
- 2.The Divisional Security Commandant,
Southern Railway,
Madurai division,
Madurai.

....Respondents

By Advocate Mr. D. Hariprasad

OA 1312/2016

M.Chellammal,
W/o. Late S. Muthupandian,
Ex constable / RPF,
Southern Railway.
Residing at:-
No. 3/3, Ulagammal Kovil Street,
Pudukudi,
Srivaikuntam 628601.

....Applicant

By Advocate M/s. R. Pandian

Vs

- Union of India rep by,
- 1.The General Manager,
Southern Railway,
Park Town,
Chennai 600003.
 - 2.The Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Park Town,
Chennai 600003.

3.The Senior Divisional Security Commandant,
Railway Protection Force,
Chennai Division, Southern Railway,
Park Town,
Chennai 600003.

4.The Senior Divisional Personnel Officer,
Chennai Division, Southern Railway,
NGO Annexe,
Park Town,
Chennai 600003.

....Respondents

By Advocate Mr. D. Hariprasad

ORDER

(Pronounced by Hon'ble Smt. B. Bhamathi, Member(A))

Since the issue of maintainability is involved, a common order is being passed in all these OAs.

2. OA 766/2016 has been filed seeking the following relief:

“The applicant respectfully prays that this Hon'ble Tribunal may be pleased to direct the respondent especially first respondent to arrange for payment of ex-gratia lumpsum amount of Rs. 20/- lakhs (Rupees Twenty Lakhs only) increased from Rs. 10/- Lakhs to Rs. 20/- lakhs as per Railway Board letter no. E(W) 1999/CPI/1 dated 05.11.1999 with 12% interest from 08.01.2009 (the date of death) till the date of payment along with cost of the application and thus render justice.”

3. OA 960/2017 has been filed seeking the following relief:

“To call for the records related to impugned order No. U/XP/500/Sett/12 dated 29.05.2013 issued by the 2nd respondent and the representation dated 29.05.2013 and further to direct the respondents to do the necessary to consider applicant's daughter for compassionate ground appointment in terms of the mandatory provisions and to pass such other order / orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice.”

4. OA 1312/2016 has been filed seeking the following relief:

“To call for all the records relating to the non-consideration of the representations of the applicant dated 11.04.2015 and 27.05.2015 made to the 2nd respondent and representation dated 18.09.2015 and 05.02.2016 made to the 4th respondent, requesting sanction of family pension, on the death of her husband as provided under provisio to sub rule (1) of Rule 65 of Railway Services (Pension) Rules, 1993 read with Railway Board Letter No. F (E) III/2003/PN1/5 dated 04.11.2008; and consequently,

1. to direct the respondents to sanction family pension in favour of the applicant with effect from the date of her eligibility as per rule in vogue; and

2. to pass such other order / orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice.”

5. It is submitted that the applicants' husbands were employed under Railway Protection Force. Learned counsel for the respondents in all the OAs had raised a preliminary objection regarding the jurisdiction of the Central Administrative Tribunal over the Railway Protection Force organization. He produces a Railway Board Order

E(NG)I/2002/PM 2/9 dated 13.10.2004 quoting a judgment of Hon'ble High Court of Andhra Pradesh dismissing the WP 13376/2004 further upholding that the members of the Railway Protection Force could not be treated as one of the departments of the Railway Board.

6. Learned counsel for the respondents further places his reliance on the judgment of Hon'ble Gujarat High Court in the case of ***Shiv Kumar Tiwari Vs. Union of India and others***. The Hon'ble High Court has held that as per the Railway Protection Force (Amendment) Act, 1985, the Railway Protection Force is an “armed force of the Union”. The Hon'ble High Court has held as follows:

“.....This cannot, in any way, take out the definition given in the Amended Act regarding the Railway Protection Force wherein it is stated that they will be “armed force of the Union”. Section 10 will not, in any way, change the character of the staff of the Railway Protection Force being the armed force of the Union except deeming them as railway servants within the meaning of the Railways Act, 1890 for the purpose of exercising powers conferred on Railway Servants by or under that Act. Thus, it is only for this limited purpose the officers and members of the Railway Protection Force which is now armed force of the Union are deemed to be railway servants.

5. Section 2 of the Administrative Tribunals Act, 1985, clearly states as follows:

“2. The provisions of this Act shall not apply to -

- (a) any member of the naval, military or air forces or of any other armed forces of the Union;
- (b) any person governed by the provisions of the Industrial Disputes Act, 1947, in regard to such matters in respect of which he is so governed;
- (c) any officer or servant of the Supreme Court or of any High Court;
- (d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union Territory having a Legislature, of that Legislature.”

S.2(a) above referred to clearly states that the provisions of this Act shall not apply to any member of the naval, military or air forces or of any other armed forces of the Union.

6. Thus, from the foregoing discussion, it is very clear that the petitioner who belongs to the Railway Protection Force comes under the

category of “an armed force of the Union” and as such, the provisions of the Administrative Tribunals Act, 1985, will not be applicable to him. If that be so, there is no question of sending back the petition filed by him to the Administrative Tribunal and the said petition has to be dealt with on merits.

7. For all these reasons, we send back the Special Civil Application to the file of the learned single Judge for the purpose of disposal on merits.”

7. Heard both counsels and perused the records.

8. It is not disputed that Railway Protection Force is an armed force and the same is also upheld by the Hon'ble Gujarat High Court in the case cited supra. Therefore, Railway Protection Force is not covered under the Administrative Tribunals Act, 1985.

9. Accordingly, the OAs are dismissed as not maintainable.

(B. Bhamathi)
Member(A)
27.03.2018

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