

CENTRAL ADMINISTRATIVE TRIBUNAL
KOKATA BENCH, KOLKATA

O.A./350/02059/2015

Date of orders 23rd Nov, 2017CORAM

HON'BLE MRs. BIDISHA BANERJEE, MEMBER (J)

Swapna Chakraborty, alias Manjula Chakraborty, wife of Late Nabarun Chakraborty, aged about 60 years, by occupation - House Wife, residing at Purba Ukilpara, Panchanantala, PO - Baruipur, 24-Parganas [s], PIN 700144, West Bengal.

.....applicants

By Advocate : Mr. S.K.Datta.

Versus

1. Union of India, through the General Manager, Eastern Railway, 17, N.S. Road, Kolkata - 700001.
2. The General Manager, Eastern Railway, 17, N.S. Road, Kolkata - 700001.
3. The Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Kolkata 700001.
4. The Chief Works Manager, Eastern Railway, Jamalpur, Manghyr, Bihar, PIN - 811214.
5. The Chief Accounts Officer/Pension, Eastern Railway, 17, N.S. Road, Kolkata 700001.

..... Respondents.

By Advocates: Mr. B.L.Gangopadhyay

ORDER

Per Bidisha Banerjee, Member (J):- The applicant, Swapna Chakraborty, alias Manjula Chakraborty claiming herself as daughter of late Amrendra Kumar Banerjee, an employee posted at Jamalpur Munger [Bihar], has assailed an order dated 22.07.2015, whereby and whereunder her claim for family pension has been rejected having held as follows –

"Analysis of factual Position & conclusion :

- 3.1 Swapna Chakraborty – The conclusion proof of Swapna Chakraborty as a daughter of Late Amrendra Kumar Benerjee ex T.No.637/Elect. Deptt is not available, hence grant of Family Pension after death of parents does not arise.
- 3.2 So far the Railway Deptt is concerned, the Deptt merely rely on the formal information given by the employee/ pensioners for which the most widely accepted means is the Family Declaration/ FORM-6, given by each

employee/ pensioner. Late Amrendra Kumar Banerjee did not give or leave any such declaration or statement/evidence mentioning Swapna Chakraborty [applicant] as his daughter during his life time, hence Swapna Chakraborty [applicant] is not established as widow daughter of Late Amrendra Kumar Banerjee ex T.No. 637/Elect. Deptt. Nor as legal heir.

CONCLUSION :

In view of the above facts and circumstances, I observed that as per Railway Banerjee ex T.No. 637/Elect. Deptt & eligible for Family Pension subject to fully dependent upon the deceased parents as per extent Railway Rules RBE No.1 116/07 & 17/09 and after fulfillment of all other condition. So, the claim of applicant [Swapna Chakraborty] for grant of Family Pension is unjustified and cannot be accepted to.

Thus, the OA No.350/00505/2015 [Swapna Chakraborty alias Manjula Chakraborty vrs. UOI & Ors.] is disposed of accordingly."

2. Learned counsel for the applicant would argue that the Welfare Inspector, who was deputed to enquire on the claim, had given a report in favor of Swapna Chakraborty, the applicant herein, as disclosed in Annexure-R-1 to the reply. Her status has been clearly depicted to as daughter of the deceased, Amrendra Kumar Banerjee. The report is extracted hereinbelow with stipulated emphasis, for clarity of the case :-

"1. Late Amrendra Kumar Banerjee, Ex. T/635 of Electric Deptt/JMP was died on 18.03.2005 and his wife namely Late Kamala Banerjee was died on 09.05.1987 before the death of late A.K.Banerjee.

2. Late Amrendra Kr. Banerjee has only two daughter from his wife Late Kamala Banerjee.

[i] Late Ruma Ghatak married daughter died on 21.07.1979.

[ii] Smt. Swapana Chakraborty married daughter, DOB – 07.08.1955.

The first daughter Late Ruma Chakraborty had married at Baranasi and Second daughter named Swapana Chakraborty had married with Late Nabarun Chakraborty.

3. The applicant Smt. Swapana Chakraborty's husband Late Nabarun Chakraborty has died on 19.08.2003 and Smt. Swapna Chakraborty has no issue from her husband late Nabarun Chakraborty.

4. Smt. Swapna Chakraborty has been residing in her husband's two rooms pakka house with asbestos roof at villa Purva Ukilpara Panchanantala, PO Burulpur, Distt.- South 24 Paraganak West Bengal.

5. Smt. Swapna Chakraborty is not in any service but she runs a small shop in her husband's house. The monthly income of that lady is about 1500/- per month. This is the only means of her livelihood.

During the enquiry the death certificate of her parents and her

husband has been collected and voter list voter I/Card and the receipt of house tax has also been collected from Smt. Swapna Chakraborty. A written statement from local conciller with witness has also been collected.

It is created that Smt. Swapna Chakraborty is living in her husband's house permanently at Village - Purva Ukilpara Panchanautala, PO - Buruipur, Distt. - South 24 Pargana, so, she is not dependent widow daughter of her deceased father. Enquiry report with all received certificates have been submitted for necessary action.

[R.N.Paswan]
CSWI"

3. Drawing attention of this Bench to the said report, learned counsel would submit that there is no dispute in regard to the fact that the applicant Swapna Chakraborty was a married daughter of the deceased, Amrendra Kr. Banerjee, therefore, her claim for family pension ought to be processed in view of the fact that she was a widowed daughter having lost her husband on 19.08.2003. Learned counsel while relying upon the decision reported in Canara Bank & Anr. Vs. M.Mahesh Kumar, reported in [2015] 2 SCC [L&S] 539 : [2015] 7 SCC 412, would submit that the claim of family pension ought to be considered on the basis of scheme that was operating in the field as on the date of death of the employee.

4. Per contra, learned counsel for the respondents would vehemently oppose the claim of the applicant on the ground that the identity of Swapna Chakraborty as daughter of the employee was highly disputed and could not be established by her beyond all reasonable doubts even in terms of Welfare Inspector's report, and that she was not a dependent of the deceased employee.

5. Learned counsels were heard and their rival contentions were considered and the materials on record were perused.

6. What emerged from the pleadings of the parties and the materials on record was that on 22.07.2015 while issuing the speaking order in terms of the directions of this Tribunal in OA 505 of 2015 dated 16.06.2015, the respondents had disclosed that the ex employee had filled up Form-6 showing details of family

members as follows :-

Sl. No.	Name	Relation	Date of Birth
1.	Smt. Kamala Banerjee	Wife	19.11.1933
2.	Kumari Manjula Banerjee	Unmarried daughter	17.11.1955

In absence of name of Swapna Chakraborty in FORM No.6 and without nomination, it is not established that Swapna Chakraborty is the unmarried daughter of Late Amrendra Kumar Banerjee."

However, it clearly ^{and} ~~irrefutably~~ emerged from the report of the Welfare Inspector that late employee had only two daughters from his wife late Kamala Banerjee. Late Ruma Ghatak, a married daughter who died on 21.07.1979 and Swapna Chakraborty whose date of birth is 17.11.1955. The husband of said Swapna Chakraborty died on 19.08.2003. She had no issue and she was running a small shop in her husband's house with a monthly income of Rs. 1500/- per month. It was the only means of her livelihood.

7. The death having taken place on 18.03.2005 the claim for family pension was to be governed by Ministry of Personnel and Public Grievances of Pensions OM dated 30th August, 2004, which was explicit that daughters including widowed and divorced daughter would be eligible for grant of family pension even after attaining the age of 25 years provided her income did not exceed 2500/- per month from employment in government, private sectors or self employment etc.

8. Smt. Swapna Chakraborty, who earned only Rs.1500/- would be eminently eligible for family pension in terms of OM supra, dated 30.08.2004. Further, the Welfare Inspector's report having clearly identified one of the daughters as Swapna Chakraborty with date of birth as 17.11.1955, which matched with the mark-sheet as contained in Annexure-A-5 to the OA, disputing the identity of the present applicant as daughter of the deceased was uncalled for. There was no reason for the respondents to harp on the issue that apart from Ruma Ghatak,

there was another daughter named Manjula Chakraborty alias Swapna Chakraborty, and that the present applicant, could not establish her identity as daughter of late Amrendra Kr. Banerjee.

9. The learned counsel for the applicant also submitted that the applicant was known as Manjula before her marriage. Therefore, her name was declared as Manjula Banerjee in the family declaration. Nevertheless, Manjula and Swapna ^{one &} were ~~are~~ and same person.

10. Be that as it may, in view of the foregoing discussions, the order dated 22.07.2015 is quashed and the matter is remanded back to the authorities concerned to pass appropriate orders the light of the Welfare Inspectors report as contained in Annexure-R/1 to the reply for consideration of the claim of the present applicant in terms of OM dated 30th August, 2004.

11. The OA is disposed of accordingly.

12. Let appropriate orders be issued within a period of three months from the date of communication of this order. No costs.

mps/-

[Bidisha Banerjee]
Member (Judicial)