

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, CAMP AT NAGPUR.
ORIGINAL APPLICATION NO. 2133 of 2014

Dated this the 11th day of August, 2017

CORAM: HON'BLE Ms. B. BHAMATHI, MEMBER (A)

Ku.Sadhana d/o Janardhan Wasnik,
Aged 60 years, OCC: Nil, r/o Sharad
Janardhan Wasnik, Bhim Nagar,
Gali No.3 Plot No.82, Post:
Bhagwan Nagar,
Nagpur-440027.

...Applicant.

(Applicants by Advocate Shri.A.B. Bambal)

Versus.

1. Union of India, Through General
Manager, Central Railway.,
Mumbai-CST-400001.
2. Divisional Railway Manager,
Central Railway, Nagpur-440001.
3. Sr. Divisional Finance Manager
Central Railway, DRMs Office,
Nagpur-440001.

....Respondents.

(Respondents by Advocate Shri.Alok Upasani)

Reserved on : 20.07.2017.

Pronounced on : 11.08.2017.

ORDER

PER:- HON'BLE MS. B. BHAMATHI, MEMBER (A)

This OA has been filed by the applicant
under Section 19 of the Administrative Tribunals
Act, 1985 seeking the following reliefs:-

"(1). Call for the records of the case from the respondents.

(2). Quash and set-aside the impugned order dated 11.06.2014 (Ann.A-1) regretting the claim of applicant by respondents.

(3). Direct respondents to grant monthly family pension to the applicant and also direct to pay arrears thereof w.e.f. 21.04.2010 i.e. from the date of death of mother of the applicant, along with interest @ 12 % p.a.

(4). Any other relief deemed fit and proper in the circumstances of the case may kindly be granted.

(5). Allow the application with cost."

2. The applicant's case is that her father, a Peon serving the Railways retired on 16.06.1981 on being declared medically unfit. He died on 30.06.2000. Thereafter, her mother was getting family pension till her death on 21.04.2010. Applicant preferred representation on 18.11.2010.

2.1. The applicant was the unmarried daughter of her parents having two sisters and one brother, who was over 25 years of age. All were married. Hence, in the light of RB circular of 18.09.2007, being the only eligible member for family pension, she

represented on 18.11.2010 alongwith school leaving certificate, death certificate of parents etc. and an affidavit of her being unmarried daughter for granting family pension. No action was taken.

2.2. Thereafter, applicant had to approach this Tribunal first in OA 2053/2011 decided on 01.07.2011. As per Tribunals order, the representation dated 18.11.2010 was to be disposed.

2.3. However, as a result of Tribunals first intervention vide order in OA 2053/2011 the respondents vide letter dated 24.01.2011 sought applicant to submit certain documents and reminded her on 06.09.2011. She sent the documents on 18.11.2011. Since no action was taken, hence, she filed a legal notice on 03.01.2012. On 27.01.2012, in response to the legal notice, the respondents informed her that Welfare Inspector was deputed/directed to inquire into the matter, who did a home visit. On 27.8.2012, respondents sought additional documents. The applicant explained about the non-availability of the documents viz complementary railways passes, Identity Card, Medical Identity Card etc. issued by the Railway

administration to her father.

2.4. Applicant again represented on 13.09.2012 but no avail. She then approached this Tribunal again in O.A.No.61/2014 which was disposed on 21.02.2014. As per the Tribunal's order, respondents again sought for the same documents on 22.4.2014, as also for the service certificate and she again explained the reasons for non-availability of the documents vide letter dated 24.5.2014. The respondents rejected her claim on the ground that due to non submission of the documents called for her dependency on the deceased employee did not stand established. Under these circumstances, a Contempt Petition No.10.2014 was filed which was disposed on 29.04.2014. Since the respondents MA for extension of time was allowed, contempt was held not to survive, although liberty was granted.

2.5. Finally vide order dated 11.6.2014, respondents rejected her claim on the ground of non submission of required documents to establish her dependency on the deceased railway employee as his unmarried daughter. Hence, this is third stage

litigation.

3. The respondents have submitted that they have been unable to process her case due to non-submission of documents sought as proof of her claim to establish dependency upon her late father.

4. In the rejoinder, Applicant has reiterated her contentions in the OA.

5. The Tribunal has gone through the O.A. alongwith Annexures A-1 to A-13 and Rejoinder of the applicant.

6. The Tribunal has also gone through the Reply filed and the original records filed on behalf of the official respondents.

7. The Tribunal has heard the learned counsels for the applicant and respondents and carefully considered the facts, circumstances, law points and rival contentions in the case.

8. This OA was heard and reserved on 21.03.2017. While remitting the OA vide order dated 04.04.2017, the following order (operative part) was passed, which stands as follows:-

"12. Respondents are directed to trace/reconstruct the original record from their office and

submit the same before this Tribunal in the July Circuit Bench Sitting at Nagpur. Failing which the DRM shall depute DRM (P) to appear before the Tribunal to explain the position with affidavit.

13. Accordingly, the OA is dereserved and treated as part-heard and shall be listed in the July Circuit Bench Sitting at Nagpur.

14. A copy of this order be sent to the learned counsel for both the parties.

15. The original record, which only pertains to applicant's personal file record, shall also be returned to the learned counsel for the respondents on receipt of this order and shall be resubmitted in the July sitting of this Tribunal."

9. Accordingly, when the case came up for hearing on 20.07.2017, the learned counsel for respondents filed the original records and also stated that the name of applicant, being the unmarried daughter of the deceased employee, figures in the declaration form and hence conceded that they will have no further objection in this matter.

10. When the OA was dereserved on 04.04.2017, the Tribunal had come to the following findings as

stated at para 8 to 11 of the said order. Para 8-11 is extracted as here under:-

"8. In support of her claim the applicant has produced the following documents. The documents in original has been shown to the Welfare Inspector during his home visit.

- (1). Voter Identity Card.
- (2). Certificate of no-employment and non-married issued by Corporation.
- (3). Copy of Ration Card of 1995.
- (4). Copy of School living Certificate.
- (5). Court affidavit declaring non-married, non-employment and non-dependency.
- (6). Death certificate of mother and father of the applicant.
- (7). Copy of PPO.
- (8). Copy of Bank Passbook of pension account .
- (9). Copy of Photo Identity Card of father and mother.
- (10). Declaration by 2 neighbours.

9. According to the said documents, it is clearly established that the applicant's date of birth is 25.12.1953. She studied in MPL Gandhi Vidyalaya, Ballarpur and School Leaving Certificate was issued by the Head Master on 31.01.1977. The same date of birth is available in the Voter Identity Card issued on 19.5.2006 in which she is shown as daughter of Shri Janardhan Wasnik. She is also shown in the Voter Identity Card to be residing at 77, Kaushalaya Nagar, Babulakheda Rd. Uvare Hayaskul Sa, Kaushalaya Nagar, Kukade Leaut, Nagpur. According to the statement of two neighbours dated 24.07.2012 it is

claimed that they know the family for the last 30 years and it is stated that the deceased railway employees had 4 daughters and one son, and the eldest daughter of the deceased railway employee remained unmarried and that she lives with her only brother Shri Sharad and is completely dependent upon him, after the death of the mother with whom she lived while she was alive and lived with her father and mother when both were alive. Applicant has obtained the details of the PPO of her mother under RTI from State Bank of India where the pension account of her mother was maintained. A copy of the order of Central Railway dated 26.12.1981 from File No.PNB/NGB/OBG7/CR/644 pertaining to grant of pension in respect of applicant's father when he was declared medically unfit for further service w.e.f. 17.8.1991 is also on record.

10. She appeared on 25.7.2012 in the office of Welfare Inspector and showed the original documents, as also documents obtained under RTI. On 30.7.2012, she submitted an affidavit of her being unemployed and unmarried. Going by the documents and statement of her neighbours, who were railway employees, the Welfare Inspector recommended to the office of respondents to consult the settlement file of the deceased employee to ascertain if the applicant was unmarried and dependent and on that basis recommended that she could be granted family pension. However, the respondents have stated that the papers relating to settlement of retiral dues of the applicant's father, are not available and applicant has also not submitted

the copy of Medical Card, Identity Card of father, his service certificate and the Complementary Passes.

11. It is evident from the above that after the death of the mother the applicant has taken all the pains to provide the documents as sought for except for four above mentioned documents namely Identity Card of deceased employee, Medical Card, Service Certificate and Complementary Passes issued by the railway administration. The applicant has stated that no complementary passes were issued for herself and for other family members and she does not have Medical Card and Service Certificate. On the other hand, the respondents have transferred the entire responsibility upon the applicant for producing the same and no efforts has been made by the office for tracing of the personal file/records of the deceased railway employee, as also the file of grant of family pension of her late mother on the death of the deceased railway employee. No attempt at tracing the records are available either of applicant's mother of 2000 when family pension was granted or of her father when he retired in 1981. The documents sought for from applicant have been issued by the respondents during the service of the deceased employee and were the basis of settlement of his retiral dues on 1981. These papers were consulted when they decided the case for grant of family pension in 2000, when her husband died. Hence, the responsibility of producing documents of applicant's dependency is more on the respondents. Applicant has managed to produce

all the documents she could."

11. Since the learned counsel for respondents has clarified that the applicant's name figures in the declaration form, after perusal of the records, this Tribunal is of the considered view that applicant is, in fact, the dependent unmarried daughter of Late Shri Janardhan Wasnik. Hence the impugned order deserves to be quashed and set aside and OA is liable to be allowed.

12. Accordingly, OA is allowed. No costs.

(Ms.B. Bhamathi)
Member (A)

Ram.