

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION No.105 OF 2017

Dated this Thursday, the 01st day of February, 2018

CORAM: HON'BLE SHRI ARVIND J. ROHEE, MEMBER (J)

Mrs. Geeta Kiran Mehta, Age 58
 Widowed daughter of Late Shri G.S.Bhatt.
 Chief Clerk. The Chief Engineer (C) Survey,
 And Construction. Mumbai
 Address Flat No.A/C/408, 4th Floor,
 Nanddam, L.T.Road, Borivali (W)
 Mumbai 400 092. *.. Applicant*

(Applicant in person)

Versus

1. The Union of India, Western Railway,
 Through the General Manager,
 Western Railway, HQ Office Building,
 Churchgate Mumbai 400 020.
2. The Chief Engineer (C) Survey, CCG, Mumbai.
 Office of the Chief Administrative Officer (C),
 1st Floor, Station Building, Churchgate
 Mumbai 400 020.
3. Dy. Chief Personal Officer (C),
 Office of the Chief Administrative Officer (C),
 1st Floor, Station Building, Churchgate,
 Mumbai 400 020. *... Respondents*

(By Advocate Shri R.R.Shetty)

OA filed on 05.12.2016
Order reserved on 24.01.2018
Order pronounced on 01.02.2018

ORDER

The applicant who claims to be
 the widowed daughter of the deceased
 Railway employee Shri G.S.Bhatt who was
 working with the respondent No.3, seeks

family pension on death of the employee and her mother who was getting family pension. The following reliefs are, therefore, sought in this OA by the applicant :-

“8(1). Your Lordships be pleased to hold that the order dated 22.08.2016 passed by respondents amounts to be without the authority of Law, and therefore null and void. Applicant had applied on 17.05.2012, for grant of life time family pension in her turn. That there is no any allegation of non-fulfilment of any rules statutorily laid down conditions.

(2) Your Lordships be pleased to quash the impugned order No.E/S/789/2/2/S&C/Family pension/2014 dated 22.08.2016 (Annexure A) turning down Applicant's claim for the grant of Life Time Family Pension, and direct the respondents to pay the Life Time Family Pension and with effect from 21.04.2012 to applicant within 30 days from the date of the direction issued by this Hon'ble Tribunal.

(c) Your Lordships may be pleased to grant any relief that may be considered to be fit and proper in the circumstances of the facts of the case.”

2. The record shows that the applicant's father Late Shri G.S.Bhatt retired on superannuation from Railway service on 01.07.1990. Thereafter, as per rules superannuation pension was sanctioned to him. The applicant was then bachelor. Thereafter, she got married with one Shri Kiran Mehta

sometimes in the year 1992. After leading a wedlock for couple of years, unfortunately the applicant's husband died on 13.04.2009. This was followed by the death of applicant's father on 03.09.2011. After his death, the family pension was sanctioned to the applicant's mother, who continued to receive it till she died on 20.04.2012.

3. After death of applicant's mother and by that time since she became the widowed daughter of the deceased employee, she applied to the respondents for grant of family pension to her. In this respect, reliance is placed on the provisions of the Department of Personnel and Pensioners Welfare OM dated 25.08.2004, which permitted widowed daughter to claim the family pension, in addition to divorced and unmarried daughters even after crossing 25 years of age. In this respect, reliance was also placed on Department of Personnel and Pensioners Welfare OM dated 28.04.2001.

4. In pursuance of the correspondence, the applicant has furnished all the documents required to the respondents. However, by the

impugned order dated 22.08.2016, the applicant was informed that since she has not submitted documentary evidence like copy of Ration Card, copy of PPO and the Railway / Medical Pass in which her name appears with the pensioner or any other Railway document from which it can be established that the applicant was dependent / actual claimant after the deceased employee. It is further stated that in absence of which claim cannot be entertained.

5. In this OA, the respondents have denied the claim on the ground that there is no evidence to show that the applicant was dependent on the deceased employee. It is obvious that her claim is not considered on merit by the respondents, since it is not specifically rejected by holding that she is not entitled to get family pension.

6. When the matter is called out for final hearing on 24.01.2018, it is submitted by the applicant, who appeared in person that all the relevant documents asked for by the respondents were furnished and in view of this, the learned Advocate for the respondents also

submitted that at the most directions may be issued to respondents to consider the applicant's claim for family pension.

7. Along with OA, MA No.479/2017 is also filed by the applicant for condonation of delay on the ground that the present OA has been filed on 03.12.2016, whereas cause of action to claim the family pension arose after the death of applicant's mother on 20.04.2012. The record, however, shows that immediately after death of applicant's mother, she submitted the application and although it was processed by calling upon the applicant to submit the additional documents, still final order could not be passed. In such circumstances of the case, the impugned order dated 22.08.2016 is challenged. As such, it is obvious that the present OA has been filed within one year therefrom. In view of above, there is hardly any scope to hold that the OA is barred by limitation. However, on technical ground, the delay if any approaching this Tribunal is liable to be condoned since the claim is for family pension, which gives rise to continuing cause of action

from month to month.

8. Considering the peculiar facts and circumstances of the case, this Tribunal is of the view that ends of justice will be better served in case appropriate directions are issued to the respondents Nos.2 and 3 to consider the applicant's claim on merit for grant of family pension.

9. Since the relevant documents asked for by the respondents are already furnished to the respondents, the same can be considered for taking appropriate decision in the matter, including the dependency of the applicant on the deceased employee or on her mother when she became the widow from 13.04.2009 on death of her husband.

10. The respondents Nos.2 and 3 are, therefore, directed to consider and pass a reasoned and speaking order on the representations of the applicant about her eligibility and entitlement to claim the family pension as the widowed daughter of the deceased employee Shri G.S.Bhatt, in accordance with law, after considering the relevant provisions of Railways Services (Pension) Rules and

various DOP&PW's OMs referred supra and also the documents produced on record by the applicant in this OA and along with the written notes of arguments dated 17.01.2018.

11. The above exercise shall be carried out within a period of six weeks from the date of receipt of copy of this order.

12. The order so passed shall then be communicated to the applicant at the earliest, who will be at liberty to approach the appropriate forum in case her grievance still persists.

13. It is made clear that in case the applicant is found to be eligible and entitled to get the family pension, the same may be granted from the date she became eligible namely 21.04.2012 on death of her mother, who was getting family pension and the arrears in that event may be paid within a period of eight weeks by issuing the necessary PPO for family pension in favour of the applicant.

14. The OA stands disposed of with the aforesaid directions after hearing both the parties.

15. In the facts and circumstances of the case, the parties are directed to bear their respective costs of this OA.

16. The Registry is directed to forward certified copy of this order to both the parties at the earliest, for taking appropriate steps in the matter as directed.

*Place : Mumbai
Date : 01st February, 2018*

*(Arvind J. Rohee)
Member (Judicial)*

*kmg**