

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

OA No. 050/00270 of 2017

Date of order reserved: 04.07.2018
Date of Order : 03.08.2018

CORAM
Hon'ble Shri Jayesh V. Bhairavia, Member [J]

Bipin Kumar Son of late Surjoo, Resident of Village/Post-Etarahi Via-Jamalpur District- Munger (Bihar)

.....Applicant

By Advocate : Shri M.P.Dixit

Versus

1. The Union of India through the General Manager, Eastern Railway, 17, N.S. Road, Kolkata-700001. .
2. The Chief Personnel Officer, Eastern Railway, 17, N.S. Road, Kolkata-700001.
3. The Financial Advisor & Chief Accounts Officer, Eastern Railway, 17, N.S. Road, Kolkata-700001.
4. The Chief Workshop Manager, Eastern Railway, Jamalpur District- Munger (Bihar).
5. The Deputy Chief Financial Officer, Workshop, Eastern Railway, Jamalpur District- Munger (Bihar).
6. The Assistant Personnel Officer, Workshop, Eastern Railway, Jamalpur District- Munger (Bihar).

.....Respondents

By Advocate: Shri S.K. Ravi, Id. Standing counsel for the Railways.

O R D E R

Jayesh V. Bhairavia, M [J]:- The applicant in this O.A. is handicapped and is aggrieved by the order dated 24.11.2016 (Annexure A/5) in view of the Annexure A/2 Series and Annexure A/3 therefore he prays for the following relief(s):-

"[8.1] *That your Lordships may graciously be pleased to quash and set aside the order dated 24.11.2016 as contained in Annexure A/5 in view of Annexure A/2 series and A/3.*

[8.2] *That your Lordships may further be pleased to direct/command the respondents to implement their own order dated 16.02.2013 as contained in Annexure A/3 with regard to payment of arrears of 20% additional family pension applicable for family pension holder effective from 01.01.2006 in view of recommendation of 6th Pay Commission after completion of the age of 80 years.*

[8.3] *That your Lordships may further be pleased to direct/command the respondents to pay the arrears of 20% additional pension in view of Annexure A/3 alongwith all consequential benefits including compound interest @ 18% on the arrears amount.*

[8.4] *Any other relief or reliefs including the cost of the proceeding may be allowed in favour of the applicant."*

2. The brief facts of the case are as stated by the applicant are as under:-

(i) That the applicant is the son of late Sarjoo who was a permanent employee of Railway who was superannuated from service on 01.09.1961 and died on 03.02.1986. Thereafter, family pension was granted to the widow of late Sarjoo, i.e the mother of the applicant.

(ii) The 6th pay Commission was implemented with effect from 01.01.2006 whereunder 20% additional pension was granted to the pensioners after attaining the age of 80 years.

(iii) Since, the widow of late Sarjoo had completed the age of 80 years, she submitted a representation before the competent authority for granting additional 20% pension with effect from 01.01.2006 and thereafter the respondents have sent one letter dated 06.12.2011 for furnishing the certain papers in support of her age due to non-availability of family declaration documents in the office. (Annexure A/1 refers).

(iv) On receipt of letter dated 06.12.2011 she submitted the required document showing her date of birth as 01.01.1915 on the basis of the same the competent authority has accorded their approval on 16.02.2013 but it was regretted that the respondents have not released the said additional pension amount. In the meanwhile, the mother of applicant i.e widow of late Sarjoo the beneficiary of family pension, died on 29.09.2016. Thereafter, respondents had issued letter dated 24.11.2016 denying the additional 20% pension treating the date of birth of widow as 25.08.1927 in place of treating the date of birth of widow 01.01.1915 without any basis. (Annexure A/3 & A/5 refer).

(v) Therefore, the applicant in this OA, prays for quashing and set aside the order dated 24.11.2016, as contained in Annexure A/5 and sought direction upon the respondents to implement their decision/order dated 16.02.2013, hence this O.A.(Annexure A/4 refers).

3. In contra, the respondents have filed their written statement dated 09.04.2018 and denied the contention and averment made by the applicant. The learned counsel for respondents submitted that late Sarjoo, Ex. T.No. 10873/BSR was an employee of these works who retired from Railway service w.e.f. 01.09.1961 under age limitation. At the time of issuance of letter dated 06.12.2011 there was no documentary proof in regard to date of birth of Smt. Ramrati Devi, wife of Late Sarjoo available in the office but in the year 2016, mother of applicant herself submitted Form No. 19 (Annexure R/1) which was duly witnessed by two railway staff and certified by Sr. Section Engineer. In the said declaration, the date of birth of Smt. Ramrati was declared as 25.08.1927 and on that basis Smt. Ramrati Devi is entitled to get quantum of additional pension @ 20% and 30% subsequently on her basic family pension.

The I/c for respondents further submitted that in case of non-availability of date of birth in office record, the Educational Certificate, Voter Card, PAN card, Passport, Driving licence are valid for confirmation of date of birth. However, the date of birth of Smt. Ramrati Devi is available in record as 25.08.1927, hence the later proof of date of birth is not acceptable. As per office record the date of birth of Smt Ramrati Devi is 25.08.1927 accordingly, the Postmaster, Head Post Office, Munger was informed by the Deputy CAO (W), E. Railway, Jamalpur vide its letter dated 24.11.2016 was issued. In the case of applicant, the date of birth of Smt. Ramrati Devi was available in the record of the office however, the applicant subsequently, submitted documents which shows that the date of birth of Ramrati Devi is 01.01.1915. The said later submission of DOB cannot be accepted which is found to be contrary to the record of office therefore, this O.A is devoid of merit and is not sustainable in law therefore liable to be dismissed.

4. In response to the submission made by the respondents and to their written statement, the applicant has filed rejoinder. The learned counsel for the

applicant additionally submitted that the documents which has been enclosed by the respondents i.e Annexure R/1 is contrary to the Annexure A/1 and A/3 issued by the Railway Authority. It is further submitted that, apart from that, recently the respondents had sent letter dated 08.03.2018/13.03.2018 in response to RTI application. According to it, the copy of service book of pensioner is not available with them, therefore, how the respondents have issued the impugned order at Annexure A/5 and R/1 whereby the date of birth of widow as 25.08.1927. It is submitted that the valid documents are on record which indicate the date of birth of widow of late Sarjoo is 01.01.1915 therefore, the respondents ought to have allow the claim of applicant.

5. The respondents had filed supplementary written statement wherein it has been stated that prior to 1964, there was no provision to grant family pension to the widow of the Ex. Employee concerned in the Railway. As such, no family declaration was required of the employee concerned at that relevant time, that is why the date of birth of Ram Rati Devi was not recorded in the Railway Records of late Sarjoo. It has been further stated that, after the death of her husband in the year 1986, Smt. Ramrati Devi herself filled up the form no-18 to the Railway Administration for sanction of family pension and the declaration made by the widow of railway employee the Family Pension's PPO was issued w.e.f. 04.02.1996, therein the date of birth of said Ramrati Devi was mentioned as 25.08.1927 and not 01.01.1915 therefore, since the said Ramrati Devi had enjoyed the family pension by accepting the order issued under the PPO, now it is not open to object about correctness of DOB stated therein.

6. Having heard the parties and perused the material on records. From perusal of records, it reveals that the ex-railway employee late Sarjoo was expired on 03.02.1986. It is apt to note that the said ex-employee was retired from railway service on 01.09.1961, prior to 1964, there was no provision to grant the family pension to the widow of ex-employee concerned in the railways. Therefore, no family declaration was obtained from the concerned employee whosoever in any category working with the railways. Subsequently, the provision of family pension was introduced. As noted hereinabove, the ex-employee died in 03.02.1986,

therefore, for the sanction of family pension necessary details including the proof of age etc. required to be filled up/provided by the beneficiary of family pension under the provision of pension scheme for railway employee 1964. Accordingly, under the provision of para 1038 (1) (a) of Railway Pension Rules, through form no.18, the family member of late ex-employee was informed to submit necessary document for proof of age etc. It is noticed that the mother of the applicant i.e the widow of late Sarjoo, ex-railway employee had submitted duly filled up form no. 19 to the railway administration for the sanction of family pension wherein the said beneficiary i.e Smt. Ramrati Devi had declared her birth date as 25.08.1927 in presence of witnesses. (Annexure R/3 & R/4 refer). On scrutiny of it, the railway administration had found it appropriate and accordingly, family pension PPO was issued w.e.f.04.02.1986 in favour of Ramrati Devi, in which date of birth of Ramrati Devi was mentioned as 25.08.1927. (Annexure R/6 refers).

7. It is noticed that, as per RBE No. 112/2008, the respondent railway department issued instructions for implementation of additional quantum of pension to old pensioners/family pensioners on attaining the age of 80 years and above. Thereafter, vide RBE 91/2009 dated 26.05.2009 further clarification was issued. According to the clause no. IV of the said RBE, it is clarified that the matter regarding the methodology were adopted for payment of additional pension of old pensioner/family pension in cases where the date of birth is not available in the PPO as well as in the office record of CPAO/Pay and Accounts Officer. According to it, if the date of birth is not available in the PPO in that case, the pension shall be paid from the 1st January following the year in which the pensioner completed the age of 80 years, 85 years etc. In the present case, the date of birth of pensioner i.e mother of the applicant was very much available with the railway authority because the family pension in favour of the widow of late ex-employee was sanctioned w.e.f. 04.02.1986 and PPO was issued wherein the date of birth was recorded as 25.08.1927. However, inadvertently, the office of the respondents issued letter to the applicant to submit additional document for proof of age of the widow of ex-employee i.e the pensioner Smt. Ramrati Devi for the purpose of grant of benefit of new provision of additional pension.

8. In response to it, the applicant mother had submitted certain documents including the copy of PAN Card, Voter ID Card, wherein the date of birth of said Ramrati Devi was recorded as 01.01.1915 which is contrary to the record of railway authority. However, as stated hereinabove, without proper verification of office record inadvertently the office of respondents had issued letter dated 16.02.2013 with respect to eligibility to receive additional pension. It is noticed that, the mother of the applicant died on 29 September 2016, till then, the benefit of provision of additional 20% /30% additional pension on attaining the age of 80 was not released or granted. Subsequently, vide order dated 24.11.2016, the competent authority i.e Accounts Department, Eastern Railway, Jamalpur informed the Postmaster, Munger as well as the copy of the said decision sent to the address of Smt. Ramrati Devi c/o Bipin Kumar, residing at Village-Itahari, District- Munger whereby it was informed that the quantum of additional pension as per the prescribed rate under the letter dated 1st September 2008 can be paid to the pensioner w.e.f. month on which the pensioner attaining the age of 80 years or above. However, the date of birth of Smt. Ramrati Devi is 25.08.1927, therefore she was not entitled to get quantum of additional pension.

9. The applicant being son of said so called beneficiary of late Ramrati Devi has filed the present OA and claimed that the respondents have erroneously deprived the legitimate claim of the mother of the applicant. It is his case that the date of birth as recorded in the government record i.e PAN Card and Voter ID of said late Ramrati Devi is of 01.01.1915 and accordingly, she was above 80 years therefore, entitle to receive the benefit of additional pension.

The said claim of the applicant is not sustainable. It is noticed that, in the year 1986, the respondent railway department had called upon the widow of ex-employee for grant of family pension with proof of age and other relevant documents, accordingly, she had filed the requisite form and declared her date of birth as 25.08.1927 in the presence of witnesses. Based on that declaration, the railway had sanctioned the family pension in favour of said late Ramrati Devi. The necessary PPO was also issued wherein the birth date was recorded as 25.08.1927.

Accordingly, from 1986 till 2016 the mother of the applicant had received the amount of family pension.

10. It is also noticed that from 1986 to 2013, the said beneficiary of said family never objected the correctness of birth date. The Railway Authority has considered the DOB of pensioner as per their record and accordingly fixed the amount of family pension. Any additional benefit i.e grant of additional pension on attaining the age of 80, the said benefit is required to be considered as per the date of birth stated in the PPO, the respondents have correctly followed the instructions issued by the competent authority as well as OM dated 21st May 2009 and found that the DOB of the mother of the applicant i.e late Ramrati Devi was recorded in the PPO as 25.08.1927 and according to the said pensioner not found entitled for additional family pension. The said decision of the respondents is not required to be interfered.

11. In view of the factual matrix of the present case and discussions made herein-above, the OA is dismissed being devoid of merit. No order as to costs. costs.

(Jayesh V. Bhairavia) M [J]

/mks/

