

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/212/2016

**Reserved on: 18.12.2018
Order pronounced on: 21.12.2018**

Between:

G. Devenamma, D/o. late G. Vimalamma,
Ex. Tr. Maintainer/Nuziveedu/S.C. Rly,
Aged 35 years, Door No.1-149, Chinaavutapalli,
Gannavaram Mandal, Krishna District, A.P.

...Applicant

And

1. Union of India, Ministry of Railways,
Rep. by the Divisional Railway Manager,
South Central Railway, Vijayawada Division, A.P.
2. The Sr. Divisional Personnel Officer,
South Central Railway, Vijayawada Division, A.P.

...Respondents

Counsel for the Applicant ... Mr.B. Rajesh Kumar
Counsel for the Respondents ... Mr. N. Srinatha Rao, SC for Rlys.

CORAM:

Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. The OA is filed for not granting secondary family pension to the applicant.
3. The applicant is the divorced daughter of the ex-employee Smt. Vimalamma who worked as Track Maintainer in the respondents organisation and died on 11.11.2013. After the death of her mother the applicant has applied for secondary family pension on 27.7.2015. The request was turned down by the respondents on the grounds that her mother died on 11.11.2013

and the decree of divorce was obtained on 29.1.2015. Hence before the death of the mother she was livingly independently and not dependent on the mother. Therefore, applicant is ineligible for secondary family pension. Aggrieved over the same the OA is filed.

4. The contentions of the applicant are that the deceased employee has nominated the applicant for pensionary benefits. The respondents settled the dues in favour of the applicant and her brother is the claim of the applicant. She was dependent member of the ex –employee. The applicant states that as per Railway Board lr. no. 20.5.2011 and DOPT lr dt 28.4.2011 family pension is to be granted to the dependent family member, irrespective of the date of death of the deceased employee. The divorce application was filed in 2009 i.e. before the death of her mother on 11.11.2013. The date of filing for divorce should be reckoned for family pension. According to Railway Board order RBE 150/2013 dt 14.1.2013, a divorced daughter is eligible for secondary family pension.

5. The respondents contend that as per Railway Board order 99/13 dt. 20.9.2013 sanction of family pension to a divorced daughter/widowed daughter is granted subject to the condition of being dependent on the deceased employee, on or before the date of death of the employee. The applicant was granted divorce on 29.1.2015 which is subsequent to the death of the ex-employee and hence the applicant was not granted secondary family pension vide letter dt 27.1.2016. It was also pointed that the ex employee passed away on 11.11.2013 and the application for family pension was made as late as 27.7.2015 nearly after one and half years of demise of the deceased employee

6. Heard the 1d counsel for the respondents. The 1d counsel for the applicant did not appear on many occasions. The OA was originally filed in 2016 but was dismissed for lack of prosecution on 22.8.2017. A restoration petition was filed on 12.9.2017 which was allowed. Even after restoration, the applicant counsel has not been appearing. Nevertheless, the case was part heard on 18.12.2018 and on the said date the 1d. counsel for the applicant did not appear. The case came up for final hearing on 20.12.2018 and even on this date the 1d counsel for the applicant did not appear.

7. The facts of the case make it clear that the applicant took divorce on 29.1.2015 and whereas the ex-employee passed away on 11.11.2013. In other words the applicant was not dependent on the deceased employee before her death, which is the proviso to be satisfied as per RBE order 99/13 dt 20.9.2013 for grant of family pension. The Railway Board and DOPT orders quoted by the applicant refer to the date of effect of the said orders and the question being dealt in the present OA is in regard to dependency of the applicant on the ex-employee. The rules do not provide for considering the date of filing of the divorce application but rely on the date of decree. A divorced daughter is eligible for secondary pension as pointed out by the applicant but she should be dependent on the deceased employee before her death which is not the case in respect of the applicant. As the rules are not in favour of the applicant the OA is dismissed with no order to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 21st day of December, 2018

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