

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/942/2011

Jabalpur, this Tuesday, the 05th day of March, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER

1. Smt. Rohni Bai, W/o Late Pyarelal Patel, aged about 62 years, Resident of Gram – Bhodri, Post – Poniya, Tehsil – Gontegaon, District – Narsinghpur 487001.
2. Girdhari Lal Patel, S/o Late Pyarelal Patel, aged about 31 years, Resident at Gram – Bhodri, Post – Poniya, Tehsil – Gontegaon – District – Narsinghpur 487001 **-Applicants**

(By Advocate – Shri M.N. Banerjee)

V e r s u s

1. Union of India through its General Manager, Office G.M., Indira Market, West Central Railway, Jabalpur – 482003.
2. Divisional Railway Manager, Office of DRM, Opposite M.P. High Court, West Central Railway, Jabalpur – 482003.
3. Senior Section Engineer Carriage & Wagon, New Katni Junction, West Central Railway, Katni 483501 **- Respondents**

(By Advocate – Smt. Amrit Ruprah)

O R D E R (O R A L)

The applicants are aggrieved in not being given family pension to them.

2. They have made the following submissions in this O.A:
 - 2.1 Late Pyarelal, the deceased Railway employee had joined the Railway department in the year 1975. He

continuously worked with the office of Senior Section Engineer, West Central Railway, New Katni Junction, Katni.

2.2 Shri Pyarelal died on 01.01.1990 due to accident.

2.3 The applicants were informed by some employees of Railways and relatives to approach the department for family pension and retiral dues.

2.4 The respondents have rejected the claim of the applicants on the ground that husband of applicant No.1 was removed from service in the year 1985 and, therefore, she is not entitled for family pension and other monetary benefits. This information has been given to Union vide letter dated 03.12.2009 (Annexure A/3).

2.5 The applicants submit that even in the event of removal from service of husband of applicant No.1, she is entitled to ex-gratia pension, which has not been paid by the respondents.

3. The applicants have, therefore, sought for the following reliefs:

“8. Relief Sought :

In view of the facts and ground mentioned above in Para 6 and 7 the applicant prays for following relief:

1. Respondents may kindly be directed to produce all relevant records.
2. That the order of rejection order Annexure A/ may kindly be set aside and respondents be kindly commanded to pay all the admissible retiral dues and family pension.
3. Respondents be kindly commanded to pay family pension to the applicant.
4. Any other order/orders, relief/relief's, which this Hon'ble Court deems fit and proper, may kindly be also passed.”

4. The respondents have filed their reply to show cause notice and have made the following submissions:

4.1 Late Pyarelal was appointed in Railway service on 25.07.1975 (Annexure A-2 and R-1).

4.2 He was removed from service on 28.04.1985. Subsequently, Shri Pyarelal expired on 01.10.1990 (Annexure A-1).

4.3 At this distinct date, no records regarding the Service Book etc. are available with the respondent department.

4.4 The O.A is hopelessly barred by limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

5. The applicants have filed rejoinder to the show cause notice filed by the respondents. They have questioned the basis on which the letter dated 03.12.2009 has been issued by the department giving date and number of the order of removal of deceased when, according to the respondents, records have been destroyed. The applicants have also asked for order of removal of service of the Disciplinary Authority. Further, the basis on which the respondents have stated that the deceased employee did not complete 10 years of service needs to be brought on record.

6. The respondents have filed their para-wise reply, wherein the following has been submitted:-

“2. In response to the show cause notice, the respondents have filed the reply opposing the admission of the instant OA mainly on the following grounds:

(a) The service record of deceased employee Late Pyarelal is not available at this distant date after 26 years. For the first time in 2009, West Central Railway Employees Union had represented the case of the deceased employee for payment of retiral dues which was rejected by the respondents vide Annexure A-3 dated 03.12.2009. This reply was based only on available two documents/pages of staff index register and marked as Annexure R-1, Annexure R-2, respectively and the Death Certificate of the deceased employee dated 23.07.2009 marked as Annexure A-1.

(b) That, Late Payrelal was ‘removed from Railway service’ on or about 28.04.1985 and he must have received his dues during his life time, which can not be ascertained in the absence of his service record.

Thus the present OA is barred by Limitation laches and delay.

(c) As per averments made by the applicants in Annexure A-2 of the OA the deceased employee had not completed minimum 10 years of continuous service and he was ‘removed from service’, therefore neither the deceased employee was entitled for pension, nor the applicant for family pension.”

7. The applicants have not filed any rejoinder to the detailed para-wise reply filed by the respondents.

8. Heard learned counsel for the parties and perused the pleadings and documents available on record.

9. The question of delay has been raised by the respondents. It is seen that the applicants have filed MA No.200/928/2011 for

condonation of delay, which has been verified by one Mr. Girdhari Lal and signed as Girhari Singh Patel. This has been objected to by the respondents in their reply, which has not been addressed to by the applicants.

9.1 The cause of action arose in the year 1990, i.e. after the death of the deceased Railway employee, whereas the instant Original Application has been filed in the year 2011. The applicants did not approach this Tribunal and kept mum for almost 21 years. Therefore, in the absence of any specific pleadings in not approaching this Tribunal within time, as prescribed under Section 21 of the Administrative Tribunals Act, 1985, the MA for condonation of delay cannot be entertained.

10. Going into the merits of the case, it is seen that the respondents have made categorical averment that they do not have any service record or other documents available of the deceased employee at this distant date. The only two pages (Annexure R-1 and R-2) which are available with them are the staff index register, which indicates the date of engagement of deceased as 25.07.1975 and removal from service on 28.04.1985.

11. During the course of argument, learned counsel for the applicants submitted that the respondents are deliberately diluting the issue and not producing proper documents.

12. Learned counsel for the respondents submitted that the records have already been searched and has been averred in Para 2 (a) of the reply that only the two documents (Annexure R-1 and R-2) are available with them.

13. Learned counsel for the applicants failed to produce any ruling/guidelines of the department as per which the relevant documents of the deceased employee would still be available on records. No portion of the reply has been controverted by the applicant by filing rejoinder.

14. In view of the above, I find that the O.A is not only devoid of any merit but barred by limitation as well. Accordingly, the O.A is dismissed. No costs.

(Navin Tandon)
Administrative Member

am/-