

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 291/273/2015,
ORIGINAL APPLICATION NO. 291/274/2015,
ORIGINAL APPLICATION NO. 291/275/2015,
ORIGINAL APPLICATION NO. 291/276/2015,
ORIGINAL APPLICATION NO. 291/277/2015,
ORIGINAL APPLICATION NO. 291/279/2015,
ORIGINAL APPLICATION NO. 291/280/2015,
ORIGINAL APPLICATION NO. 291/281/2015,
ORIGINAL APPLICATION NO. 291/282/2015,
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ORIGINAL APPLICATION NO. 291/284/2015,
ORIGINAL APPLICATION NO. 291/285/2015,
ORIGINAL APPLICATION NO. 291/286/2015,
ORIGINAL APPLICATION NO. 291/287/2015,
ORIGINAL APPLICATION NO. 291/288/2015
&
ORIGINAL APPLICATION NO. 291/289/2015**

Order reserved on 12.03.2019

DATE OF ORDER: 14.05.2019

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

OA No. 291/273/2015

Smt. Mishri Devi W/o late Shri Madan Singh, (Daughter of late Shri Ram Lal), aged about 60 years, R/o House No. 1339/42, Near Dr. Dayal, Dhola Bhata Colony Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/274/2015

Smt. Malti Devi W/o late Shri Kailash Chand (Daughter of Late Shri Mohan Lal), aged about 35 years, R/o House No. 8/10, Krishanganj, Mehboob Ki Kothi, Ka-188, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Divisional Rail Manager, Ajmer Division, North Western Railway, Ajmer.
5. The Branch Manager, State Bank of India, Main Branch, Opposite Collectorate, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. R.G. Khinchi, counsel for respondents no. 2 to 4.

Mr. Vijay Saini, proxy for

Mr. K.K. Saini, counsel for respondent no. 5.

OA No. 291/275/2015

Smt. Vimla Devi W/o late Shri Ramesh Chand (Daughter of Late Shri Shankar), aged about 60 years, R/o Naya Ghar, Nai Basti, Jagdamba Nagar Colony, Gulab Bari, Ajmer (Rajasthan).

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel P.G. & Pension Department of Pension & Pensioners welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Deputy Chief Material Manager General Store, North Western Railway, Near Power House, Ajmer.
5. The Branch Manager, Bank of Baroda, Branch Mayo College, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. R.G. Khinchi & Mr. Anupam Agarwal,
counsels for respondents no. 2 to 4.

None present for respondent no. 5.

OA No. 291/276/2015

Smt. Leela Devi W/o late Shri Vijendra Kumar (Daughter of Late Shri Bhanwar Lal), aged about 38 years, R/o Near Vardhaman College, Nehru Gate, Gali No. 2, Beawar, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Divisional Rail Manager, Ajmer Division, North Western Railway, Ajmer.
5. The Branch Manager, Bank of Baroda, Beawar Branch, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. R.G. Khinchi, counsel for respondents no. 2 to 4.

OA No. 291/277/2015

Smt. Maina Devi W/o Late Shri Birdi Chand Gehlot (Daughter of Late Mr. Ganesh), aged about 62 Years, R/o Before Railway Crossing, Gora Colony, Dhola Bhata, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.
5. The Branch Manager, Bank of Baroda, Mayo College, Girls School Branch Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/279/2015

Smt. Heera Devi W/o Late Shri Krishan Lal (Daughter of Late Shri Bhanwar Lal), aged about 55 years, R/o Chuhano Ka Kua, Near Dhola Bhata, Ajmer (Rajasthan).

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pension Department of Pension & Pensioners welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Deputy Chief Material Manager, General Store, North Western Railway, Near Power House, Ajmer.
5. The Branch Manager, State Bank of Bikaner & Jaipur, Branch Dhola Bhata, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. Anupam Agarwal & Mr. R.G. Khinchi,
counsels for respondents no. 2 to 4.

OA No. 291/280/2015

Smt. Kanta Devi W/o Late Shri Jagdish Mahawar, (Daughter of Late Shri Heera Lal), aged about 53 years, R/o House No. C/o Bala Bai Kumhar Ki Chali, Rakhyal Road, Saraspur, Ahmedabad, Gujarat.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/281/2015

Smt. Gyana Devi W/o Late Shri Bal Kishan Chauhan, (Daughter of Late Shri Sukkha), aged about 55 years, R/o House No. 934/29, Near Kamla Floor Meel, Dhola Bhata, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/282/2015

Smt. Laxmi Devi W/o Late Shri Bhagwan Das, (Daughter of Late Shri Chaute Lal), aged about 54 years, R/o House No. 763/43, Peepal Ka Kua, Dhola Bhata Road, Nagbai, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/283/2015

Smt. Shyama Devi W/o Late shri Gopal Singh, (Daughter of Late Shri Deepa), aged about 64 years, R/o House No. 728/29, Meyo Link Road, Anandpuri, Nai Basti, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/284/2015

Smt. Indira Devi W/o Late Shri Amar Chand (Daughter of Late Shri Ladu Ram), aged about 52 years, R/o House No. 441, Ward No. 34, Satyanarayan Mandir, Near Nala, Pal Beechla, Ajmer (Rajasthan).

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel P.G. & Pension Department of Pension & Pensioners welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Deputy Chief Material Manager General Store, North Western Railway, Near Power House, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. Anupam Agarwal & Mr. R.G. Khinchi,
counsels for respondents no. 2 to 4.

OA No. 291/285/2015

Smt. Shanti Bai w/o Late Shri Prabhu Lal, (Daughter of Late Shri Bhanwar Singh), aged about 73 years, R/o Gali No. 4, Balaji Ka Mandir, Gulab Bari, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/286/2015

Smt. Bhagwati Devi w/o Late Shri Parmeshwar Kachhawa, (Daughter of Late Shri Chand Mal), aged about 53 years, R/o House No. 161/27, Gadhi, Maliyan, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

OA No. 291/287/2015

Smt. Sarla Devi w/o Late Shri Raju, (Daughter of Late Shri Govind Singh), aged about 49 years, R/o House No. 105, Ward No. 35, Shankar Nagar, Nagra, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. R.G. Khinchi, counsel for respondents no. 2 to 4.

OA No. 291/288/2015

Smt. Maya Devi W/o Late Shri Subhash Chandra, (Daughter of Late Shri Sua Lal), aged about 55 years, R/o Shriya Dharamshala, Mahadev Chowk, Choti Basti, Pushkar, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. R.G. Khinchi, counsel for respondents no. 2 to 4.

OA No. 291/289/2015

Smt. Ugma Devi W/o Late Shri Bhag Chand Chauhan, (Daughter of Late Shri Pooran Chand), aged about 51 years, R/o House No. 118/38, Dhanna Ji Ka Kua, Gadi Maliyan, Jonsganj, Ajmer, Rajasthan.

....Applicant

Mr. Namish Nigotia, counsel for applicant.

VERSUS

1. Union of India, Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners, Welfare, North Block, New Delhi – 110001 - through its Secretary.
2. The Chairman, Railway Board, Rail Bhawan, Near Shastri Bhawan, New Delhi.
3. The General Manager, North Western Railway, Jawahar Circle, Jagatpura, Jaipur.
4. The Chief Workshop Manager, Loco Workshop, North Western Railway, Ajmer.

....Respondents

Mr. A.S. Shekhawat, counsel for respondent no. 1.

Mr. M.L. Goyal, counsel for respondents no. 2 to 4.

ORDER

Per: Suresh Kumar Monga, Judicial Member

OA No. 291/273/2015, OA No. 291/274/2015, OA No. 291/275/2015, OA No. 291/276/2015, OA No. 291/277/2015, OA No. 291/279/2015, OA No. 291/280/2015, OA No. 291/281/2015, OA No. 291/282/2015, OA No. 291/283/2015, OA No. 291/284/2015, OA No. 291/285/2015, OA No. 291/286/2015, OA No. 291/287/2015, OA No. 291/288/2015 and OA No. 291/289/2015 are taken up together for decision as a common question of law and fact is involved in all these cases.

2. With the consent of learned counsels for the parties, the facts are taken up from OA No. 291/273/2015 (Smt. Mishri Devi vs. Union of India & Ors.). The pleaded case of the applicant herein is that her father late Shri Ram Lal had been working as a

Fitter in the Loco Workshop at Ajmer. He died on 29.09.1979 after his retirement from the services of the respondents. After his death, the applicant's mother had been receiving the family pension upto the date of her death i.e. 12.08.2000. It has further been averred that the applicant's husband also expired on 06.02.2007 and she became a widow. As a widowed daughter of late Shri Ram Lal, she became entitled to get family pension as per the circulars / notifications dated 16.03.2005, 20.11.2007, 20.08.2008, 20.05.2011, 25.08.2005, 17.08.2009 and 28.04.2011 issued by the respondents. Accordingly, she had submitted an application before respondent No. 4 for grant of family pension on 04.02.2013. The said application was accepted by the respondents and a Pension Pay Order dated 01.02.2014 was issued vide which the applicant was held entitled to get family pension w.e.f. 07.02.2007. The amount of family pension was directly credited in the applicant's bank account. It has further been averred that the applicant had been getting the family pension upto September, 2014 regularly and all of a sudden the payment was stopped in the month of October, 2014. The applicant was shocked with such an unusual and arbitrary action of the respondents. On enquiry, she was informed that her family pension has been stopped because of the Circulars no. 1/13/09-P&PW(E) dated 11.09.2013 and 18.09.2014 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners' Welfare followed by Railway Board by way of issuance of Circulars no. F(E)III/2007/PN1/5 dated 26.09.2013 and 30.09.2014. Alleging that the said circulars are arbitrary in nature and have infringed the fundamental rights of

the applicant, the present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985.

3. The respondents no. 2 to 4, by way of filing a joint reply, have joined the defence and opposed the claim of the applicant. The fact that the applicant's father was working as a Fitter in Loco Workshop at Ajmer and he expired on 29.09.1979, has not been disputed. It is also not in dispute that after his death, the applicant's mother Smt. Ganga Devi had been receiving the family pension upto the date of her death i.e. 12.08.2000. However, it has been stated that the applicant's husband Shri Madan Singh expired on 06.02.2007 i.e. after the death of the applicant's parents. At the time of the death of the applicant's parents, she was leading a married life and, therefore, she is not entitled for family pension because she was married before the death of her parents. Since she became widow after the death of her parents, therefore, she was not dependent on her parents and was not a member of family as defined in Rule 54 (14) of the CCS (Pension) Rules, 1972. The respondents have also placed reliance upon OM No. 1/2/09-P&PW(E) dated 12.10.2009 (Annexure R/1) issued by the Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioner's Welfare wherein while referring to an earlier OM no. A-38020(23)/2008-E.III dated 29.09.2009 issued by Ministry of Commerce & Industry they submitted that a clarification was issued that a daughter of a Government servant, who is married and not dependent on her father when he was alive, does not become eligible to receive the family pension after the death of her husband. It has further been averred that the payment of family pension was

stopped to applicant from October, 2014 in compliance of Railway Board circular dated 30.09.2014 (Annexure A/4) because she was not entitled for the same as she was not dependent at the time of death of her parents. With all these assertions, the respondents have prayed for dismissal of the Original Application.

4. While filing the rejoinder to said reply, apart from reiterating the facts as pleaded in the Original Application, the applicant has further asserted that the financial assistance in the shape of family pension accorded by the respondents to applicant became the source of her livelihood and the same cannot be withdrawn subsequently in an arbitrary manner.

5. Heard learned counsels for the parties.

6. At the very outset, Shri M.L. Goyal, learned counsel representing the respondents No. 2 to 4 pointed out that the issue involved herein is no longer res integra as the Ernakulam Bench of this Tribunal in the case of **Saraswathi S. & Ors. vs. Union of India & Ors.** (OA No. 180/01041/2014) & other connected matters, has already decided the controversy vide order dated 12th July, 2016 by holding that the Railway Board letter No. F(E)III/2007/PN1/5 dated 30.09.2014 cannot be termed as ultra vires to the statutory provisions of the Railway Services (Pension) Rules, 1993. The challenge made against the orders issued for discontinuance of family pension has also been repelled in terms of Department of Pension and Pensioners' Welfare OM no. 1/13/09-P&PW(E) dated 18.09.2014 on the ground that the applicants became widow/divorcee after the death of the pensioner/spouse and as such they are not eligible

for family pension. Paragraphs 14, 15 and 19 of the said order of Ernakulam Bench of this Tribunal reads thus: -

"14. It was argued by the learned counsel for the applicant that family pension is a socio-economic measure for protecting the livelihood of hapless women who in our society are not taken care of by their relatives on becoming widows/divorcee. However, if one examines the background of each of the applicants in these cases it can be seen that they become widow/divorcee only after the death of their parents who were Railway pensioners. Many of the applicants became widows long after the death of their parents. Therefore, unless some restriction is imposed by emphasizing on the dependency factor, there is a possibility that the grant of family pension will denigrate to the status of a hereditary right which will be antithetical to the equality clauses in Arts.14 and 16 of our Constitution. Family pension is a socio-economic measure to give public assistance to the really needy widows/divorcees from being subjected to 'undeserved wants' as envisaged in Art.41 of the Constitution. In the case of applicant No. 1 in OA No. 1047 of 2014, as could be seen from Annexure R1(a) application submitted by her to the Railway authorities for family pension, her father who was a Railway pensioner died in 1989 and she became a widow only in 2010. She has also candidly stated in the Annexure R1(a) application that she is dependent on her son Appu Swamy. One fails to understand how in such situations one can rely the provisions of the 1993 pension rules for grant of family pension in an unbridled manner, without proving that she was a widow who was totally dependent on the deceased railway pensioner before his death and that her continued sustenance requires the family pension received by her father with which he had been supporting her till his death. It was with a view to put a reasonable restriction on the misuse of the facility of family pension, Government of India through the Department of Pension & Pensioners Welfare has issued Annexure A4 OM which has been rightly followed by the Railway Board also.

15. In Annexure A4 we are unable to see any act which can be termed as ultra vires the statutory pension rules. On the other hand we are of the considered view that Annexure A4 OM is only facilitating the proper implementation of the provisions of family pension contained in 1993 pension rules and is intended to avoid the misuse of the facility by all the widow/divorced daughters of the deceased Railway pensioners without considering the factor of their dependency on the pensioners when they were alive. It is easily discernible in the case of other dependents like unmarried daughters, disabled persons and mentally retarded persons that such persons are the real dependents of the pensioners and that are persons who cannot afford to have the livelihood option of their own. Similarly, in the case of the parents of the pensioners who are alive at the time of the death of the pensioner it has been made clear that they are eligible for family pension only if they were totally dependent on the Railway pensioner during his life time.

19. We, therefore, hold that Annexure A4 and the impugned orders are not ultra vires the rules. We do not find any unconstitutionality or violation of any constitutional limitations in the impugned orders."

7. Shri M.L. Goyal, learned counsel for the respondents No. 2 to 4 further pointed out that on an Original Petition [OP (CAT) No. 206 of 2016 (Z)] filed before the Hon'ble High Court of Kerala at Ernakulam in the case of **Sobhana V. Vs. Senior Divisional Finance Manager, Southern Railway & Ors.**, the aforesaid order dated 12th July, 2016 passed by the Ernakulam Bench of this Tribunal has been affirmed vide order dated 29th July, 2016.

8. Confronted with this, Shri Namish Nigotia, learned counsel for the applicant while placing reliance upon a judgment of the Hon'ble High Court of Gauhati in the case of **Vungkhonem vs. State of Manipur and Ors.** 2008 (1) GLT 14, argued that the family pension cannot be treated as a bounty. The right to draw family pension once accrued in favour of the applicant cannot be taken away by way of circulars dated 11.09.2013, 18.09.2014, 26.09.2013 and 30.09.2014. We are not inclined to accept the said argument of learned counsel for the applicant as admittedly the applicant was leading a married life at the time of death of her parents and she was not dependent upon them. She was allowed family pension because of wrong interpretation of the Rules. So far as the judgment of the Hon'ble High Court of Guwahati in the case of **Vungkhonem** (supra) is concerned, the same cannot be applied in the facts and circumstances of the present case as it was a case where the mother of a deceased government servant was claiming family pension and the court was considering the question of grant of family pension in the given facts and circumstances to the parents of Government employees who retired/died in harness on or after 01.01.1996.

9. Shri Namish Nigotia, learned counsel for the applicant further argued that the respondents had taken a conscious decision on 01.02.2014 to grant family pension to the applicant w.e.f. 07.02.2007 and now after such a long period, the decision of the respondents to stop the family pension abruptly has resulted into arbitrariness and strikes at the applicant's right as enshrined in Articles 14 and 21 of the Constitution of India. We do not accept such a plea raised by Shri Namish Nigotia, learned counsel for the applicant, as a wrong cannot be perpetuated for all times to come. The applicant is not found eligible to get family pension because of the fact that at the time of death of her parents, she was leading a married life and was not dependent on her parents. She was allowed family pension in the year 2014 because of some wrong interpretation of the Rules and in our considered view the same cannot be allowed for all times to come.

10. Learned counsel while relying upon a judgment of the Hon'ble Rajasthan High Court in the case of **Ashok Kumar vs. State of Rajasthan & Ors.** 2000 (2) WLN 574 submitted that before stopping the payment of family pension, respondents ought to have observed the principles of natural justice. The said argument of learned counsel also does not find favour with us. As in the case in hand, the respondents remained benevolent towards the applicant by not affecting the recovery of the amount of family pension paid upto October 2014.

11. Shri Namish Nigotia, learned counsel for the applicant while placing reliance upon a judgment of the Hon'ble Supreme Court in the case of **Union of India & Ors. vs. Ashok Kumar**

Aggarwal (Civil Appeal No.9454 of 2013) decided on 22.11.2013 argued that the respondents cannot take away the applicant's right arising out of the statutory rules by way of issuance of an Office Memorandum. We are not inclined to accept the said argument raised by learned counsel for the applicant. The circular dated 18th September, 2014 (Annexure A/2) has already been held to be within the constitutional limitations by Ernakulam Bench of this Tribunal in the case of **Saraswathi S.** (supra). Since the judgment rendered by the Ernakulam Bench of this Tribunal has been affirmed by the Hon'ble High Court of Kerala at Ernakulam in the case of **Sobhana V.** (supra), therefore, we do not find any reason to take a different view than the view already taken by Ernakulam Bench of this Tribunal.

12. In the conspectus of discussions made in the foregoing paragraph, we do not find any merit in these cases and, therefore, all these Original Applications are liable dismissed.

13. Accordingly, all these Original Applications are hereby dismissed. However, there shall be no order as to costs.

(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER

(SURESH KUMAR MONGA)
JUDICIAL MEMBER

Kumawat