

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.105/2017

Dated Tuesday, the 12th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

G. Shyamala Valli
No. 28, Kalaignar Nagar
Thoozuthavoor Village
Chinnamapet Post
Tiruthani Taluk
Tiruvallur Dist.

... Applicant

By Advocate M/s Ratio Legis

Vs

1. Union of India rep. by
The General Manager
Southern Railway
Park Town, Chennai 600 003.

2. The Senior Divisional Personnel Officer
Chennai Division, Southern Railway
Park Town, Chennai – 600 003.

3. The Senior Divisional Finance Manager

Chennai Division, Southern Railway

Park Town, Chennai – 600 003.

... Respondents

By Advocate Mr. A. Abdul Ajees

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To call for the records related to the pension & family pension orders with reference to late T.Rathinam's employment and letter dated 25.11.2014 made by the 2nd respondent and to direct the respondents to extend the benefit of family pension in terms of the Rule 75 of the Pension Rules to the applicant and to pass such other order /orders.”

2. It is submitted that the applicant was the adopted daughter of one late G.Sornambal who died on 10.01.2010. The husband of the latter who was a family pensioner also expired on 25.03.2010. The applicant was entitled to family pension thereafter which was finally allowed along with arrears by PPO dated 28.09.2015. The applicant was entitled to interest on delayed payment as the delay was attributable entirely to the respondents.

3. The applicant filed OA 86/2016 which was disposed of by an order of this Tribunal dated 21.01.2016 granting liberty to her to submit a fresh representation to the appropriate authority who shall consider it on merits and pass a speaking order within two months thereafter. Annexure A-4 impugned order dated 07.04.2016 was passed in pursuance thereof rejecting her claim for interest on the ground that the delay in payment of settlement benefits occurred due to the production of bogus birth certificate by the applicant as also rival claims by others.

4. According to the respondents, the delay had occurred due to the applicant's inability to produce documents that would have been acceptable to the respondents. Therefore, the respondents deputed one staff and welfare inspector to verify the genuineness of the adoption deed of the applicant and after satisfying themselves that the claim for settlement benefits on the basis of adoption deed was genuine, a conscious decision was taken to settle the benefits in her favour.

5. Learned counsel for the applicant would submit that the name of the applicant was included in all the official records. In terms of Annexure A-1 OM dated 24.03.1997 approval was accorded for the adoption of the applicant, clearly mentioning the age and date of birth of the applicant. As such, the respondents having verified these details before issuing the memorandum were unnecessarily harassing the applicant for production of birth certificate etc. following the alleged rival claims.

6. The applicant filed OA 1158/2013 which was disposed of by an order of this Tribunal dated 05.11.2014 with a direction to the respondents to call the applicant as well as the rival claimants with the original of the adoption deed and legal heirship certificate obtained by them and then enquire into the claims in accordance with law. As the rival claimants did not present themselves on the two dates they were called, it was clear that they had no claim whatsoever and the applicant's case was being delayed unnecessarily. Accordingly the applicant was

entitled to payment of interest on the arrears of family pension as the delay had occurred for no fault of hers, it is contended.

7. Learned counsel for the respondents would, however, argue that the very fact that the Tribunal had directed the respondents in OA 1158/2013 to call the applicants as well as the rival claimants with the original of the adoption deed and legal heirship certificate obtained by them and then enquire into the claims in accordance with law as also the liberty granted to them to confront the applicant in regard to their finding on the birth certificate produced by her being not genuine and seek her explanation clearly indicated that there was a genuine dispute on account of which the respondents were unable to pay the applicant her family pension till then. The respondents followed the direction of the Tribunal and after satisfying themselves about the genuineness of the applicant's claim had allowed her family pension along with arrears and there was no undue delay whatsoever in the process.

8. Given the above background, the applicant is not entitled to any interest on delayed payment of arrears especially when there is no provision for payment of interest on such arrears, it is contended. As for the directions contained in OA 86/2016 by order dated 21.01.2016, it is submitted that the OA was not decided on merits. The applicant was only granted liberty to submit a fresh representation and the respondents were directed to consider it on merits and pass a speaking order. Such a

direction could not be claimed to be a vindication of the applicant's right to be paid interest, it is argued.

9. I have considered the pleadings and submissions made by the rival counsels. It is not in dispute that there were rival claimants at whose instance the respondents had asked for copies of some documents from the applicant. In the absence of any dispute, it would have been appropriate for the respondents to have followed Annexure A-1 OM dated 24.03.1997 wherein approval had been accorded for adoption of the applicant then two years old (DoB- 06.01.1995) by Smt.Sornambal. However, since a dispute was raised, it was inevitable that the respondents would make further enquiries.

10. A perusal of the order of this Tribunal in OA 1158/2013 dated 05.11.2014 would reveal that the applicant had sought a direction to the first respondent therein to pay family pension and service benefits of her late mother G.Sornambal for the period 11.01.2010 to 25.06.2013 with 12% interest from the date of sanction of payment of family pension and service benefits to the applicant. However, while disposing of the case the Tribunal had not considered it appropriate to direct the respondents to grant interest in the event of the applicant's claim being found genuine. As the claim along with interest had been considered in the said OA which was disposed of with certain directions, I am of the view that the dispute in this case was not fictitious and there was no undue loss of time by the respondents in complying with the order dated 05.11.2014. In as much

as finally family pension was sanctioned to the applicant on 28.09.2015, it would be difficult to hold that the delay that occurred in the matter was entirely attributable to the respondents.

11. The relief sought in this OA does not include interest specifically though in the pleading it is stated that the applicant was entitled to be paid retiral benefits with interest. In the facts and circumstances of the case, the respondents cannot be directed to pay interest on the arrears.

12. OA is disposed of with the above observations. No costs.

**(R.RAMANUJAM)
MEMBER (A)
12.02.2019**

M.T.