

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHENNAI BENCH**

**O.A.No.588/2017**

**Dated Tuesday, the 29<sup>th</sup> day of January, 2019**

**PRESENT**

**Hon'ble Mr.R.Ramanujam, Administrative Member**

R. Jayalakshmi

No. 7 Nineth Cross, MMK Colony

TVS Tolgate

Trichy 620 020.

**... Applicant**

**By Advocate M/s. R. Pandian**

**Vs.**

1. Union of India rep by

The General Manager

Southern Railway

Park Town, Chennai 3.

2. The Divisional Personnel Officer

Southern Railway, DRM Office Complex

Trichy – 620 001.

3. The Senior Divisional Accounts Officer

Southern Railway, DRM Office Complex

Trichy – 620 001.

**... Respondents**

**By Advocate Dr. D. Simon**

**(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 reliefs:

“(i)To call for all the records relating to the denial to sanction family pension to the applicant on the death of her widowed mother (Family Pensioner) and to quash the impugned order No. TP 500/FP/KR/2015 dated 10.06.2016 issued by the 2<sup>nd</sup> respondent; consequently,

(ii)To direct the respondents to sanction family pension to the applicant from the date of death of her widowed mother i.e. from 07.11.2012; and

(iii)To pass such other order/orders.”

2. It is submitted that the applicant's father who was in the service of the respondents died on 20.08.1975 following which the applicant's mother was paid family pension. The applicant who was only five years old at that time and dependent on her mother married in the year 1992. However, she had to return to her mother's house in March 1998 allegedly due to ill-treatment by her husband/in laws. As such, she became dependent again on the family pensioner from 1998 onwards.

3. The applicant's mother died on 07.11.2012, survived by the applicant who had no independent means of livelihood. She obtained a decree of divorce from the Family court, Vellore on 10.12.2014 and sought family pension as due to a divorced dependent daughter of a pensioner/family pensioner. However, her request was rejected by the second respondent by Annexure A-5 impugned order dated 16.06.2016, on the ground that she filed for dissolution of marriage on 22.12.2014

only and, therefore, could not be considered as dependent on her mother at the time of the latter's death.

4. Learned counsel for the applicant would argue that in terms of OM dated 19.07.2017 of the Department of Pension and Pensioners' Welfare, family pension to a divorced daughter was permissible even in such cases where the divorce proceedings had been filed in a competent court during the life time of the employee/pensioner/family pensioner but divorce took place after their death. The applicant did not file for divorce earlier as she was not eligible for family pension before the issue of the OM cited. Had she known that such a policy decision would be taken by the competent authority, she would have acted in 1998 itself when she was separated from her husband. As such, the applicant was entitled to be considered in accordance with the spirit of the OM dated 19.07.2017, it is contended.

5. Learned counsel for the respondents would, however, contest the claim stating that widowed/divorced daughters beyond the age of 25 were previously not eligible for family pension. However, such a provision was introduced subsequently as a welfare measure. The conditions for grant of family pension in such circumstances had been further relaxed in the case of persons who had filed for divorce before the date of death of the employee/pensioner/family pensioner as the delay in obtaining the decree could not be attributed to the dependent divorced daughter. However, in the case of the applicant herein, she had not even initiated the proceedings seeking divorce till 2014 by which time her family pensioner

mother had already expired. Accordingly, nothing survived in the matter and the request of the applicant for family pension was not supported by rules, policy decision or executive orders of the Government.

6. I have considered the pleadings and the submission of the rival counsel. It is not in dispute that the applicant is a divorced daughter of a family pensioner but the divorce had been obtained after the death of the family pensioner. From the pleadings and the documents attached by the applicant, it is also clear that the applicant was not living with her husband and had returned to her family before the death of the family pensioner. It is also clear that the case of the applicant is not covered by the OM dated 19.07.2017 of the Department of Pension and Pensioners' Welfare and as such the respondents could not be faulted for rejecting the claim of the applicant. However, there is also some force in the contention of the applicant that the applicant had not filed for divorce earlier as she could not have anticipated the policy decision as contained in OM dated 19.07.2017 of the Department of Pension and Pensioners' Welfare.

7. Notwithstanding the above, the provision for allowing family pension to a divorced daughter had been made by OM dated 30.08.2004. The applicant's mother died only in the year 2012. In the mean time the applicant could have taken steps to initiate proceedings for divorce which was not done. Whether in the spirit of the OM dated 19.07.2017, a further relaxation could be allowed or not for persons who were defacto

dependent on the pensioner/family pensioner but failed to initiate divorce proceedings before the death of the pensioner/family pensioner, for bonafide reasons is a matter of policy on which this Tribunal will not be able to issue any directions.

8. It is for the applicant to make a detailed representation on the facts and circumstances of her case to the competent authority and the latter to take a decision whether the provisions of the OM dated 19.07.2017 could be further relaxed to accommodate genuine cases where the divorce proceedings could not be initiated for valid reasons.

9. OA is disposed of with the above observations.

**(R.RAMANUJAM)**  
**MEMBER (A)**  
**29.01.2019**

M.T.