

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH:  
NEW DELHI**

O.A. NO.3284 of 2016

This the 17<sup>th</sup> day of September 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)**

Smt. Radhi Bai, Aged about 78 years,  
W/o Late Ganesh Gangaram Pawar  
Through  
His son and Power of Attorney holder  
Shri Krishna Pawar  
S/o Late Ganesh Gangaram Paawar,  
Both R/o A-139/2, Shiv Mandir Gali,  
Fazilpur, Mandawali,  
Delhi-110092.

.... Applicant  
(By Advocate : Shri Prem Kumar Singh)

VERSUS

1. Ministry of Railways,  
Rail Bhawan, Room No.256-A,  
Raisinha Road,  
New Delhi-110001  
Through  
The Secretary.
2. Central Railways,  
Nagpur Division,  
Nagpur-441111  
Through  
DRM(P) NGP.

..... Respondents  
(By Advocate : Shri Kripa Shankar Prasad)

**O R D E R (Oral)**

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

“(i) The Respondents may be ordered to grant family pension of the Applicant alongwith the previous

dues alongwith interest @18 per cent as per Family Pension Rules of Railway; and/or

(ii) Any other relief as the Hon'ble Court may deem fit and proper in the interest of justice."

3. This case has been filed by Smt. Radhi Bai w/o late Ganesh Gangaram Pawar, through her son and power of attorney holder, namely, Shri Krishna Pawar and during the pendency of this OA, the said Smt. Radhi Bai expired on 26.12.2017.

4. The case of the applicant is that Shri Ganesh Gangaram Pawar, husband of Smt. Radhi Bai and father of Krishna Pawar, Ex. Khalasi under IOW BZU, expired on 18.7.1976. The said Smt. Radha Bai was not mentally stable and the said Krishna Pawar was of about 6/7 years at that time. After the death of Shri Ganesh Gangaram Pawar, his brother, namely, Tukaram Godia with ulterior motive did not disclose to the department that Smt. Radhi Bai was alive and the said Tukaram Godia did the documentation of the family pension in a manner that the family pension may be granted to minor Krishna Pawar and the said Shri Tukaram Godia became natural guardian on behalf of Shri Krishna Pawar till the time he attained majority for receiving the amount of family pension and as per the documentation done by Shri Tukaram Godia, he received the family pension till the time Shri Krishna Pawar became major.

4.1 On 22.7.1996 when Shri Krishna Pawar became major, he applied for compassionate appointment to the respondents. According to the applicant, the officials of the department visited the home of the applicant and got the relevant forms filled up and had taken relevant documents and information for family pension and compassionate employment. However, despite the formalities being done, the

applicant did not receive any response for a long time and applicant kept on making personal representation to the respondents' office. Thereafter applicant submitted his representation dated 3.1.2007 to the respondents to consider his case for grant of compassionate appointment.

4.2 Thereafter on 18.4.2011, applicant filed an application under RTI for providing information with regard to compassionate appointment and family pension and when no reply to his RTI received, he filed appeals on 22.5.2012 and vide order dated 22.5.2013, PIO, Central Railway, Nagpur, was directed to provide the required information. The CPIO of the respondents vide letter dated 12.5.2011 provided the requisite information to the applicant in which it is stated that his applicant for compassionate appointment was received through Hd. Quarters office under M R Reference and the case was replied accordingly vide this office letter no.NGP/P/12028/R/Comp dated 12.07.2007.

4.3 Thereafter applicant informed the respondent that the applicant is alive and living with her son since day one, though her condition was not good at the time of death of deceased Govt. employee. Son of the applicant kept on pursuing the case for pension and as per an internal communication dated 6.11.2015, the case of mother of the applicant, i.e., Smt. Radhi Bai was referred to DRM, Nagpur for examination and deputing the person for verification. According to the applicant, the respondents had done verification several times, however, no action has been taken as yet.

4.4 Feeling aggrieved by inaction on the part of the respondents, the applicant has filed this OA seeking the reliefs as quoted above.

5. Pursuant to notice issued to the respondents they have contested the OA and stated that after the death of late Shri Ganesh Pawar, Ex-employee, applicant no.2 through his guardian informed the respondents that the applicant no.1 was missing. Hence, the respondents paid the settlement dues and family pension to applicant no.2 through his administrator as per Pension Rules till he was minor. The applicant no.2 had earlier misled the respondents and now he is stating in the OA that he is residing with his mother, i.e., applicant no.1. Further the applicant no.1 has not approached the respondents after the death of deceased employee.

5.1 They further stated that on becoming major, i.e., after the age of 18 years, the applicant no.2 has not applied for family pension in his own name. Further the applicants have not taken any civil or criminal action against Shri Tukaram Godia, who, on the basis of false information, enjoyed the family pension for which the applicants were entitled nor have the applicants impleaded the said Shri Tukaram Godia as party respondent to the OA under reply.

5.2 They also stated that the applicants have not produced any documentary evidence showing that applicant no.1 was mentally abnormal. As such they pleaded that the OA is liable to be dismissed on the ground of non-joinder of necessary party – Shri Tukaram Godia, who has received family pension as alleged in the OA and not bringing the necessary documents of treatment of applicant no.1. Therefore, the claim of the applicants for sanction and payment of family pension does not survive.

5.3 They further stated that applicant no.2 was granted family pension (through guardian being minor) on information provided that applicant no.1, i.e., mother of the applicant

no.2 was missing and the family pension was granted to him upto 1988, i.e., till he became major as per law. Thereafter, he kept mum for 8 years till 1996 and made representation dated 22.5.1996 and further kept quite for about 11 years till 2007 and again made representation dated 3.1.2007 for compassionate appointment only. Mere making repeated representation after lapse of years does not create fresh cause of action. The applicant no.1 also has not approached the respondents for her family pension at any point of time. Hence, the OA is liable to be dismissed on this account.

5.4 They further reiterated that as per pension rules after the death of late Shri Ganesh Pawar, applicant no.1, being wife of the deceased employee was entitled for family pension being first claimant. But, applicant no.2 through his guardian, informed the respondents that applicant no.1 was missing, hence, the respondents granted family pension to applicant no.2 through his guardian as per Pension Rules till he was minor. It is further stated that applicant no.2 has earlier misled the respondents and now he is stating in the OA that he is residing with his mother, i.e., applicant no.1. On becoming major, i.e., after the age of 18 years, he has not applied for family pension in his own name nor of his mother, who was living with him since day one. Instead he has applied for compassionate appointment vide letter dated 22.5.1996, firstly at the age of 27 years and thereafter made representation dated 3.1.2007. In his representation, applicant no.2 has accepted that they were receiving family pension till he was minor and the same was stopped in 1988. Also applicant no.1 has not approached the respondents after the death of deceased employee.

5.5 They further stated that on receiving the representation dated 22.5.1996, for compassionate appointment, respondent nominated staff and welfare Inspector to investigate the

matter and to collect the record for processing the case for compassionate appointment to ward of the deceased Railway employee as is done in every case. But as the first application for compassionate appointment for applicant no.2 was received after a gap of 20 years from the date of death of his father and also after two years from attaining majority, his case was not processed for compassionate appointment being time barred. They further stated that applicant no.2 again through MP made representation dated 13.9.2005 for compassionate appointment which was replied by the respondents vide letter dated 10.10.2006. But the applicants have never requested for family pension to applicant no.1 which creates doubt with regards to the eligibility of applicant no.1 for family pension.

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

7. During the course of hearing counsel for the applicant reiterated the averments made in the OA as noted above. On the other hand, learned counsel for the respondents besides reiterating the averments made in the counter affidavit strenuously argued that applicant no.2 through his administrator informed the respondents that applicant no.1 was missing. Hence, the respondents paid the settlement dues and family pension to applicant no.2 through his administrator as per Pension Rules till he was minor. Since then applicant no.2 has not prayed for family pension for his mother, i.e., applicant no.1, even in his representation dated 22.5.1996. Counsel further contended that applicants in the rejoinder admitted that they have not chosen to take any action against the said Shri Tukaram Godia, who has received the retiral benefits as well as family pension as a Guardian of applicant no.2 as per the Pension Rules and have also not chosen to implead the said Tukaram Godia as one of the

party respondent in the array of parties of this case. As such the contentions of the applicants at this belated stage cannot be sustainable in the eyes of law.

8. Having regard to the averments of the parties as noted above and also the fact that the applicant has not chosen to take any action against the said Tukaram Godia, who was admittedly receiving the family pension on behalf of the applicant no.2, being his administrator/Guardian, till his attainment of majority, i.e., 1988, after attaining majority and even till today, this Tribunal does not find any ground to entertain this OA and the same is accordingly dismissed. There shall be no order as to costs.

**(Nita Chowdhury)  
Member (A)**

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