

**Central Administrative Tribunal
Principal Bench**

OA No. 3244/2018

**Reserved on: 02.05.2019
Pronounced on: 17.07.2019**

Hon'ble Mr. Mohd. Jamshed, Member (A)

Smt. Tarawati, aged 64 years, Group – C,
W/o Late Sh. Phool Singh,
R/o Village Meoka, PO Wazirpur,
Distt. Gurgaon.

...Applicant

(By Advocate: Mr. Yogesh Sharma)

Vs.

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway manager,
Delhi Division, State Entry Railway,
New Delhi.
3. The Sr. Divisional Personnel Officer,
Northern Railway, Delhi Division,
DRM Office, State Entry Road, New Delhi

...Respondents

(By Advocate: Ms. Neetu Mishra)

ORDER

Mohd. Jamshed, Member (A):-

The applicant through this OA has sought the following relief(s):-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 23.7.2018 (Annex.A/1), declaring to the effect that the whole action of the respondents not granting the family pension to the applicant is illegal, arbitrary and against the rules and consequently, pass an order directing the respondents to grant the family pension to the applicant in respect of Late Sh. Phool Singh w.e.f. 31.01.2016 with arrears of pension and with interest @18%.

(ii) any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation.

9. Interim relief:

Pending final disposal of the main OA, the Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to start family pension of the applicant provisionally till the final disposal of the main OA."

2. This is the second round of litigation. The details as submitted in the OA, indicate that the husband of the applicant, namely Sh. Phool Singh, who was working in the Railways as Trackman under SSE(P. Way) in Delhi Division of Northern Railway. He retired on 31.05.2011, on attaining the age of superannuation and was accordingly granted pension vide PPO No. 0111020698. The husband of the applicant passed away on 30.01.2016. Subsequently, the applicant applied for grant of family pension under rule 100 of the RS (Pension)

Rules, 1993 on 21.04.2016. No reply was received from the respondents and the applicant was not granted family pension. Aggrieved by the action of the respondents, the applicant filed OA No. 2067/2018 before this Tribunal, seeking grant of family pension. The Tribunal vide order dated 24.05.2018 passed the following order:-

"2. Learned counsel for the applicant states that in regard to her claim the applicant has filed the representations(Annexure A-1 dated 18.05.2017)& (Annexure A-2 dated Nil) to the respondents but no decision has been taken by them on herrepresentation till date. He further states that the applicant would be happy and satisfied if a direction is issued to the respondents by this Tribunal to decide the representations(Annexure A-1 dated 18.05.2017) & (Annexure A-2 dated Nil)of the applicant by passing a detailed and reasoned order within a specified period of time.

3. In view of the limited prayer of the applicant, the respondents are directed to decide applicant's representations (Annexure A-1 dated 18.05.2017) & (Annexure A-2 dated Nil), by passing a detailed and reasoned order within a period of two months from the date of receipt of a certified copy of this order. It is made clear that nothing has been commented upon the merits of this OA.

4. The OA is disposed of with above said directions."

3. In compliance of the Tribunal's order the respondents decided the representation of the applicant vide impugned order dated 23.07.2018, rejecting the claim of the applicant on the ground that there is no mention about the status of spouse for grant of family pension in the PPO issued to Late Sh. Phool Singh. Moreover no such nomination was submitted by late Sh.

Phool Singh from which it can be ascertained that she is the widow of the deceased. The applicant stated that she has been shown as wife of the deceased employee in other documents like Aadhar Card, Voter List, Village Surpunch Record, Ration Card, etc. It is also submitted that till date no other claim has been made on the family pension by any other person and, therefore, the applicant be granted family pension as she is the real wife of the deceased, Shri Phool Singh. The applicant has filed the present OA seeking quashing of impugned order dated 23.07.2018 (Annexure-A1) and directing the respondents to grant the family pension to the applicant w.e.f.31.01.2016 with arrears of pension and with interest @ 18%.

4. In support of her claim in the OA, the applicant has annexed copies of Aadhar Card, indicating the applicant to be the wife of Late Shri Phool Singh, Letter from Village Surpunch, Voter List and Ration Card. However, there is no medical record of the deceased husband indicating the name of the applicant as his wife.

5. The respondents in their counter reply have submitted that the deceased Shri Phool Singh, S/o Shri Shree Ram worked as Trackman in Delhi Division of

Northern Railway and retired on 31.05.2011. All necessary Pensionary benefits were released in his favour and he was also sanctioned pension vide PPO No. 0111020698. It is mentioned that as per the Form – 6 filed by the employee at the time of his retirement, there is no mention about the spouse for grant of family pension and, accordingly, the PPO has been issued without anyone nominated to receive family pension. It is stated that in the absence of any relevant documents, it was not feasible to ascertain that the applicant is the widow of Shri Phool Singh and, accordingly, the representation of the applicant dated 18.05.2017 was considered and disposed of as directed by Hon'ble Tribunal rejecting the claim of the applicant for family pension.

6. In the rejoinder filed by the applicant, it is reiterated that the applicant is eligible for family pension as per Rule 100 of the RS (Pension) Rules, 1993. It is also reiterated that various records indicate the name of the applicant as his wife and that it may be by mistake that the deceased Shri Phool singh has not mentioned the name of the applicant in Form – 6.

7. Learned counsel for the applicant argues that the deceased employee Shri Phool singh may have by mistake not nominated the name of the applicant in Form-6 and, therefore, the same has not been reflected in the PPO. However, through various other records, such as, Aadhar Card, Voter List, letter from Village Surpunch and Ration Card as annexed, it is evident that the applicant is the legal wife of the deceased Shri Phool Singh and, therefore, she is eligible for family pension. It is also argued that this Tribunal in OA No. 2067/2018 had given directives to the respondents to pass a detailed and reasoned order but the impugned order dated 23.07.2018 is a non-speaking order through which the claim of applicant has been rejected by the respondents.

8. The Learned counsel for the respondents stated that the respondents are governed by the rules and regulations prescribing nominations by the employee in Form-6 before retirement. These details are also reflected in the PPO. In this case no such nomination was mentioned by the deceased Shri Phool Singh, regarding the applicant and the PPO was accordingly issued. In view of this, the claim of the applicant cannot be sustained for grant of family pension.

9. Heard Mr. Yogesh Sharma, learned counsel for the applicant and Ms. Neetu Mishra, learned counsel for the respondents and perused the records.

10. The applicant has claimed that she is the widow of Late Shri Phool Singh, who worked as Trackman in Delhi Division of Northern Railway and retired from service on 31.05.2011, on attaining the age of superannuation. He was granted pension vide PPO No. 01110202698 along with other retiral benefits. The said employee passed away on 30.01.2016 and subsequently, the applicant requested the Competent Authority for extending the benefit of family pension to her. The applicant also submitted a representation dated 18.05.2017 to the respondents but which remained unanswered. Aggrieved by this, the applicant filed OA No. 2067/2018 before this Tribunal seeking relief in terms of consideration of various documents and records which indicated that the applicant is the legal wife of deceased Shri Phool Singh for granting her family pension. The impugned order dated 23.07.2018 has been passed by the respondents in terms of the directions given by this Tribunal in OA-2067/2018. The operative portion of the impugned order reads as under:-

"On-going through your representation dated 18/5/2017, by which it has been informed that your husband working in Railways under SSE/PW/GGN as Trackman retired on 31/5/2011 & has expired on 30/1/2016. Further you have requested for grant of family pension in your favour. Accordingly, I have gone through the documents available on records, and it is revealed that, it is correct that Sh Phool Singh s/o Shree Ram working as Trackman under Sr SE/PW/GGN had retired on 31/5/2011 and was sanctioned necessary pension vide PPO No. 0111020698. It is also observed from the declaration of family members submitted by your husband as per form 6 there is no mention about the status of spouse for grant of family pension. Moreover no such nomination was submitted by your late husband from which it can be ascertained that you are the widow of the deceased.

Since the name of spouse was not mentioned in the necessary declaration given by your husband at the time of his retirement, and no such nomination was submitted by him during his life time, as such, it is not feasible to extend the benefit of family pension in your favour as requested.

Hence your request is considered and rejected on the above facts of the case."

11. The above mentioned order does not indicate whether any other documents that the applicant has stated and annexed in this OA, such as, Aadhar Card, Ration Card, Railway Hospital OPD slip, Village Surpunch certificate, and Voter list has been considered by the respondent. It is also evident that these documents were not part of the application made by the applicant in her representation dated 21.04.2016 and 18.05.2017.

12. Government being an ideal employer, it is the responsibility of the respondents to carefully consider all aspects and records of an employee. Family details are

also recorded and mentioned on a number of occasions during service including for medical cards and issue of travelling passes, etc. It was expected that all these aspects would be considered and a reasoned and speaking order will be passed by the respondents on the representation of the applicant dated 18.05.2017 as per directions of this Tribunal. However, that does not seem to have been done as the respondents have neither considered such records nor mentioned the same in the cursory impugned order.

13. In view of the above, the impugned order dated 23.07.2018 is quashed and set aside. The OA is allowed and the Respondent No. 2 is directed to consider and decide the representation of the applicant dated 18.05.2017 afresh in the light of the observations made in this order & various documents submitted indicating the applicant to be the wife of Late Sh. Phool Singh and pass a reasoned and speaking order within a period of three months from the date of receipt of certified copy of this order. There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

/ankit/