

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 14th day of February Two Thousand And Ninteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/164/2019

Elizabeth,
W/o. Late Yesupatham,
Ex. Khalasi/LW/PER
No.2/12B, Orathur Village
Orathur Uratchi
Tiruttani Taluk
Tiruvallur District- 631 209.

....Applicant

(By Advocate: M/s. Ratio Legis)

Versus

1. Union of India Rep. by
The General Manager,
Southern Railway,
Park Town, Chennai-3;
2. The Chief Workshop Manager,
Loco Workshop, Ayanavarm,
Southern Railway,
Chennai- 600 023..

...Respondents

(By Advocate:)

ORAL ORDER

[Pronounced by Hon'ble Mr. R. Ramanujam, Member (A)]

Heard. Applicants have filed this OA seeking the following reliefs:-

“to call for the impugned order No. LS/500/Sett./F. Pension/LW dated 06.07.2018 and to quash the same and further to sanction family pension with effect from 05.03.1979 and other terminal benefis with admissible interest and to pass such other/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice.”

2. It is submitted that the applicant is a widow of one late K. Yesupatham who entered service with the respondents' organisation on 25.6.1971 and died in harness on 4.3.1979. As no action had been taken to grant family pension, the applicant obtained relevant information under Right to Information Act and, thereafter, made a representation dated 12.2.2018 for family pension. As no action was taken on the representation, she filed O.A. 464 of 2018 which was disposed of by Annexure-A/11 order dated 5.4.2018 directing the respondents to consider her representation of the applicant dated 12.2.2018 in accordance with law and relevant service rules and pass a reasoned and speaking order.

3. The impugned Annexure-A-12 order dated 6.07.2018 has been passed in pursuance of the above, rejecting the claim of the applicant on the ground that the applicant's husband had been removed from

service with effect from 29.06.1979 for unauthorized absence. His total qualifying service was less than 10 years and, hence, no pensionary benefits were applicable to the ex-employee. As the employee was not eligible for any pension, the question of allowing family pension to the applicant would not arise.

4. Learned counsel for the applicant would submit that as the applicant's husband died on 4.3.1979, the question of his removal from service with effect from 29.06.1979 does not arise. Clearly, the removal had occurred after the death of the employee and, therefore, it was not valid in law. The applicant's claim for family pension ought to be considered on the basis of the death certificate produced before the respondents. He would further allege that intimation of the applicant's husband's death was made to the respondents on 4.7.1979 and, therefore, the respondents ought to have known that no order could be passed to remove him from service.

4. On perusal, it is seen that Annexure -A/12 communication dated 6.7.2018 states that the qualifying service of the applicant's husband was less than 10 years and therefore no pensionary benefits could be granted to the ex-employee. As for the claim of death before the date of removal from service, it is stated that no records were available in the office regarding the death of the said employee. It is not clear if the applicant had produced any evidence regarding the claim that her husband's death was intimated on 4.7.1979 ahead of the date of

removal from service. In the absence of any such evidence and a cogent explanation why no representation was made till February, 2018, the respondents could not be faulted for their refusal to grant family pension to the applicant. A delay of almost 39 years on the part of the applicant in seeking family pension of which the delay from July 2015 alone is sought to be explained in terms of the time taken to obtain information under the Right To Information Act, could not be condoned perfunctorily. It is for the applicant to establish her bonafides and support her claim with reliable evidence.

5. In view of the above, no direction can be given to the respondents to further process the case of the applicant unless the relevant papers along with due acknowledgements of their submission to the competent authority at the relevant time is produced before the respondents.

6. OA is dismissed. No costs.

(R. RAMANUJAM)
MEMBER (A)

14.2.2019

Asvs.