

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH**

OA.No.201/2018

Dated Tuesday, the 23rd day of April, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

Smt.A.Saraswathi,
D/o.Late A.Kuppammal,
No.188/25, Muthiah House,
Kullanampatti, Natham Road,
Dindigul 624 003.

... 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,
Madurai Division, Southern Railway,
Madurai-16.

.. Respondents

By Advocate Mr.K.Vijayaragavan

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 impugned order No.SGW/P.535/O.A.842/2017/MAS dated 14.08.2017 made by the 2nd respondent and to quash the same, and further to direct the respondent to extend family pension with effect from the date of death of her husband with all the attendant benefits with admissible interest and to make further order/orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.”

2. It is submitted that the applicant is a divorced daughter of late one V.Kuppammal who was an ex-safaiwala and drawing pension till her date of death on 16.02.2001. The applicant's father pre-deceased her mother on 07.03.1977 and accordingly the applicant was entitled to family pension as a dependent of the deceased pensioner. However, her claim for family pension following the death of her mother was turned down by Annexure A-2 communication dated 16.12.2014 in which it was stated that the applicant had been widowed after the death of her mother and therefore, she was not entitled to family pension.

3. Learned counsel for the applicant would draw attention to Annexure A-1 correspondence from the second respondent

addressed to the competent authority dated 05.03.2014 in which it was clearly stated that the applicant had produced necessary documentary evidence in support of her claim such as the death certificate of the parent, legal heirship certificate, income certificate, court order for divorce, non-marriage certificate, etc. It was also noted that a welfare inspector has been deputed to enquire into the genuineness of the claim and based on the records available, the competent authority had accorded sanction of family pension in her favour. It was also stated that the applicant was entitled to family pension at the rate of Rs.3500 + admissible relief from 01.10.2010 onwards till her lifetime or remarriage whichever was earlier. As such, the subsequent rejection of her claim on the ground that she was a widowed daughter and she was not eligible for family pension on account of the fact that she was widowed after the death of the pensioner showed complete non-application of mind on the part of the authorities, it is contended.

4. Learned counsel for the applicant would, further produce a copy of the order of this Tribunal in OA 30/2019 dated 09.01.2019 in a similar case wherein the competent authorities were directed to review their stand, should the law be finally decided in favour of

persons similarly placed as the applicant in SLP Diary No.21982/2017 pending before the Hon'ble Apex court and submit that the applicant would be satisfied if a similar order is passed in this case.

5. Learned counsel for the respondents would, however, vehemently oppose the prayer pointing out that the applicant had not even claimed an appropriate relief in this OA. It is pointed out that there was no order dated 14.08.2017 of the second respondent and the question of quashing the same would not arise. As for Annexure A-2 communication dated 16.12.2014, it is submitted that the same had not been challenged. The widowed/divorced daughter could only be sanctioned family pension, if the divorce or the death of the husband as the case may be, occurred before the death of the employee/pensioner on whom the daughter was dependent. In this case, there is no evidence whatsoever that the applicant was divorced or widowed before 16.02.2001 when her mother died in harness. In the case of divorcee, a provision had been made by OM dated 19.07.2017 of the Department of Pension and Pensioners Welfare that a divorced daughter could be sanctioned family pension even in cases where the divorce took

place after the death of the employee/pensioner if the divorce proceedings had been filed in a competent court during the life time of the employee/pensioner, provided all other conditions for grant of family pension under Rule 54 of the CCS Pension Rules, 1972 were fulfilled. The applicant has not produced any evidence that divorce proceedings had been initiated before the expiry of her mother on 16.02.2001. Accordingly, the OA is liable to be dismissed, it is submitted.

6. I have considered the matter. It is not in dispute that the applicant is a daughter of deceased ex-safaiwala Smt.A.Kuppammal who expired on 16.02.2001. On the date of death of the applicant's mother, the applicant was neither divorced nor widowed. The applicant has also not produced any evidence that divorce proceedings had been filed in a competent court of jurisdiction before the death of her mother. As such, prima facie it would appear that the applicant has not made out a case.

7. The applicant has sought an order similar in the one passed in OA 30/2019 dated 09.01.2019 in the case of a widowed daughter whose husband had died after the death of the Government employee/pensioner. The SLP (Diary No.21982/2017) filed before

the Hon'ble Apex court in which the relevant provision had allegedly been challenged in the Hon'ble Apex court, was also quoted therein. If it is true that the provision that only such widowed/divorced daughters would be eligible for family pension in whose cases the widowhood/divorce occurred before the date of death of the Government employee/pensioner is under challenge in the said SLP, I see no reason why the applicant's case should not be reviewed in the event of the law being settled finally in favour of persons similarly placed as the applicant.

8. In view of the above, this OA is disposed of with liberty to the applicant to make a fresh representation to the competent authority in the event of the law being finally settled in favour of persons similarly placed as the applicant. Upon receipt of any such representation along with supporting documents, the respondents shall consider the same in accordance with law.

9. OA is disposed of in the above terms. No costs.

(R.RAMANUJAM)
MEMBER (A)
23.04.2019

M.T.