

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 4th day of April Two Thousand And Nineteen

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

OA.310/485/2019

M. Rohini,
D/o. Late A.C. Munuswamy,
No.1/2, Pillaiyar Koil Street,
Manavalan Nagar, Vengathur,
Thiruvallur, Tamil Nadu- 602 002.

....Applicant
(By Advocate: M/s. A. Lakshminarasimhan)

Versus

1. Union of India Rep. by
Secretary to Government of India,
Ministry of Railways,
New Delhi- 110 011;
2. The Personnel Officer/Stores/PER
Headquarters Office,
Personnel Branch, Ayanavaram,
Chennai- 600 023.

...Respondents

(By Advocate: Mr. P. Srinivasan)

ASVS

ORAL ORDER

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

Heard. Applicant has filed this OA seeking the following relief:-

"to call for the records pertaining to the order of the second respondent in his proceedings letter Number P(S) 171/WFP/2018 dated wrongly mentioned as 11th February, 2018 and quash the same and consequently direct the respondent to sanction the family pension to this applicant and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. The applicant being an unmarried daughter of her late father, A.C. Munusamy who retired from service on 31.01.1990 and died on 18.10.2015, claimed family pension. As she was not sanctioned family pension, she filed O.A. 733/2014 which was disposed of by an order of the Tribunal dated 21.06.2018 with an observation that impugned communication dated 25.4.2018 did not address the claim of the applicant to be the sole dependent daughter of the said late employee. It was for the authorities to conduct necessary enquiry in this regard and if there was any doubt, seek further documentary and other evidence that could be reasonably expected to be in the possession of the applicant. The impugned order, Annexure-12 dated 11.02.2018 came to be passed in compliance thereof, aggrieved by which, the applicant is before this Tribunal in this second round of litigation.

3. Learned counsel for the applicant would submit that inasmuch as the grant of family pension was allowed to unmarried/widowed/divorced

daughters in the order of their date of birth in terms of RBE No. 116/2007 referring therein to DOP&PW's OM No. 1/19/03-P&PWE dated 6.9.2007, the applicant ought to have been granted family pension. However, the respondents had stated that one Smt. Tulasi was a widowed elder sister of the applicant and, therefore, she was eligible for unmarried/widowed/divorced daughter's family pension ahead of the applicant. Unless the elder daughter became ineligible for the grant of family pension, the applicant could not be considered for the same. Further, the respondents alleged discrepancies in respect of the date and place of death of late employee, marital status of her brother, marital status of other children of the late employee, number of legal heirs of the employee and the absence of the name of the applicant's elder sister in the legal heir certificate produced by the applicant. It is also stated that her elder sister had now submitted her claim for family pension.

4. Learned counsel for the applicant would allege that the respondents deliberately distorted the facts and failed to conduct the enquiry as directed by the Tribunal. The discrepancy in the date or place of death of the late pensioner and the marital status of the applicant's elder brother were not relevant for a finding on the eligibility of the applicant to receive family pension. As for the claim made by Smt Tulasi, the applicant's elder sister, it is submitted that though she was a widow, her husband had worked in the State Civil Supplies Corporation and, therefore, she was not in need of family pension. The dispute about the number of legal heirs is also not relevant as the Civil Court granted the decree based on family card and not

on the basis of any independent inquiry. Inasmuch as the respondents had failed to conduct due inquiry as directed by this Tribunal, the impugned Annexure-12 order dated 11.2.2018 was liable to be set aside, it is contended. It is also submitted that the impugned order has been dated 11.02.2018 due to a typographical error and it should read as 11.02.2019.

5. Mr. P. Srinivasan, learned Standing Counsel takes notice on behalf of the respondents and submits that it is not correct to state that the respondents did not carry out requisite inquiry. In the impugned order, it is clearly stated that after inquiry, it was found that there were nine legal heirs of the late employee instead of five as shown in the legal heir certificate by the Tahsildar. It was also found that the applicant's elder sister, Smt. Tulasi was a widow and, accordingly, had precedence over the applicant for family pension. It has also been stated that the said Tulasi who was earlier unaware of the Railway family pension procedures had now submitted her claim for family pension which is liable to be admitted. Accordingly, the claim of the applicant was held dubious as brought out in the impugned order.

6. I have considered the pleadings and submission made by the rival counsel. The impugned order clearly states that the applicant's elder sister, Smt. T. Tulasi, who was a widow had the first claim on family pension and only in the event of her becoming ineligible, the applicant's case could be considered. Further, some discrepancies have been pointed out and it is stated that the documents submitted by the applicant were fictitious and,

therefore, grant of family pension was not permissible as per the standing instructions on the subject.

7. In the above circumstances, I am of the view that if at all the applicant felt that she had a better claim for family pension over her elder sister and she could satisfactorily explain the discrepancies pointed out by the respondents in the impugned order, it is for her to take the initiative and satisfy the respondents about her credentials. The applicant's elder sister is not seen impleaded in this OA. Accordingly, this OA is liable to be dismissed at the admission stage, however, with liberty to the applicant to produce documentary and other evidence, if available regarding her bonafides before the competent authority within two weeks from the date of receipt of a copy of this order.

8. In the event of applicant producing evidence to the satisfaction of the competent authority to resolve the material discrepancies, the respondents may consider the matter in accordance with the relevant rules/ standing orders along with the claim made by her elder sister and pass a reasoned and speaking order within a period of three months thereafter. No costs.