

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.NO.060/00761/2019 Orders pronounced on: 29.11.2019
 M.A.No.060/01146/2019 (Orders reserved on: 26.11.2019)

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. Nirmala Yadav Wd/o Deepak Yadav, resident of Village Bhandor, PO-Punshik, District Rewari, presently resident at Village Berli Kalan, PO-Musepur, District Rewari, Haryana-123401 (Group-C) Age 23 years.
2. Divyanshi (Minor) daughter of late Deepak Yadav, resident of Village Bhandor, PO-Punshik, District Rewari, Presently residing at Village Berli Kalan, PO-Musepur, District Rewari, Haryana, through its natural Guardian and mother Nirmala Yadav i.e. Petitioner No.1

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Applicants

Versus

1. Union Railway, Rail Bhawan, 256-A, Raisina Road, Rajpath Area, Central Secretariat, New Delhi, Delhi-110001 through its Secretary
2. North Western Railway HQ Office near Jawahar Circle, 3rd Floor, Malviya Nagar, Jaipur, Pin: 302107 through its Regional manager
3. Regional Manager, Rewari Railway Station, Rewari, Railway Colony, Rewari, Haryana-123110

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Respondents

**Present: MR. JAI SINGH YADAV, ADVOCATE, FOR APPLICANT.
 MR. LAKHINDER BIR SINGH, ADVOCATE,
 FOR RESPONDENTS.**

O R D E R
(BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)):

M.A.No.1146/2019 is allowed by permitting the applicant No.1 (Mother) and applicant No.2 (minor Daughter) to file this joint Original Application.

2. The applicants have approached this Tribunal for issuance of a direction to the respondents to appoint applicant No.1 on compassionate grounds and release various service related benefits to both of them, on demise of deceased employee. The facts are largely not in dispute. Mr. Deepak Yadav (deceased), husband of applicant No.1, was working as Helper of the respondent Railways. Applicant No.2 is minor daughter of the employee. He committed suicide on 11.9.2017. An FIR No. 229 dated 9.10.2017 was registered under sections 306/34 IPC on 11.9.2017 at PS Ramfura (Rewari), against some persons including applicant No.1, for instigating the deceased to commit suicide. Applicant No.1 asked for release of family pension and other benefits including compassionate appointment and in reply to RTI Application, she was informed vide letter dated 21.11.2018, that her request cannot be considered on account of pendency of a criminal case against her. The applicants plead that due to this, applicant No.2, minor daughter of deceased employee is suffering and at least she should be released the permissible benefits. Hence, the O.A.

3. The respondents have filed a reply opposing the claim of the applicant on the ground that since a criminal case is pending against the applicant No.1, so she is not entitled to any benefit, as such O.A. deserves to be dismissed.

4. Heard learned counsel for the parties at length and examined the material on the file, with their able assistance.

5. It is not in dispute that on demise of a railway employee, the entitled members of the family are granted family pension and as per Category-I, (a) widow or widower, upto the date of death or re-marriage, whichever is earlier and (b) son/daughter (including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest, is entitled to such grant of pension etc.

6. It is admitted at all hands that in terms of rule 72(1) and 75(14)(i) of the Railway Service (Pension) Rules, 1993, the claim to receive gratuity / family pension of persons like applicant no. 1 remains suspended till the conclusion of the criminal proceedings against her. The rules being relevant are reproduced as under :-

"72. Debarring a person from receiving gratuity –

(1) If a person, who in the event of death of a railway servant while in service is eligible to receive gratuity in terms of rule 71, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, his claim to receive his share of gratuity shall remain suspended till the conclusion of the criminal proceedings instituted against him.

(2) If on the conclusion of the criminal proceedings referred to in sub-rule (1), the person concerned – (a) is convicted for the murder or abetting in the murder of the railway servant, he shall be debarred from receiving his share of gratuity which shall be payable to other eligible members of the family, if any, (b) if acquitted of the charge of murdering or abetting in the murder of the railway servant, his share of gratuity shall be payable to him.

(3) The provisions of sub-rules (1) and (2) shall also apply to the undisbursed gratuity referred to in sub-rule (2) of rule 71.

"(14)(i) If a person, who in the event of death of a railway servant while in service, is eligible to receive family pension under this rule, is charged with the offence of murdering the railway servant or for abetting in the commission of such an offence, the claim of such a person, including other eligible member or members of the family to receive the family pension, shall remain suspended till the conclusion of the criminal proceedings instituted against him. (ii) If on the conclusion of the criminal proceedings referred to in clause (i), the person concerned – (a) is convicted for the murder or abetting in the murder of the railway servant, such a person shall be debarred from receiving the family pension which shall be payable to other eligible member of the family, from the date of death of the railway servant; (b) is acquitted of the charge of murder or abetting in the murder of the railway servant, the

family pension shall be payable to such a person from the date of death of the railway servant"

7. It is, thus, apparent that one cannot find fault with the action of respondents in not paying any benefit to the applicant no.1 including compassionate appointment, unless the indicated criminal case is decided by the relevant court of law.

8. However, it is also equally true, that the applicant No.2, minor daughter of deceased employee, cannot be made to suffer and she would require financial help more so when applicant no.1 is not entitled to the benefits till conclusion of the proceedings as per indicated rules. The fact remains that the applicant no.2 also falls within the entitled Category-I as discussed above.

9. In the wake of peculiar facts of this case, it would, thus, be in the fitness of things, considering principles of equity, justice and good conscience, to direct the respondents to release family pension on provisional basis, to applicant no.2, through her natural guardian, within a period of two months from the date of receipt of a copy of this order. Ordered accordingly. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**PLACE: CHANDIGARH
DATED: 29.11.2019**

HC*

