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CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

DATED THIS THE 25 DAY OF APRIL, TWO THOUSAND NINETEEN

PRESENT:

THE HON'BLE MR P. MADHAVAN, MEMBER (J)
&
THE HON'BLE MR. T. JACOB, MEMBER (A)

OA/310/00452/2018

Ms. Ranganayaki. S
No.3A4, Sri Sai Ram Nagar,
Noothanchery,
Madambakkam,
Chennai 600 126.

...Applicant

-versus-

1. Union of India rep., by
The Secretary,
Railway Board,
Ministry of Railways,
Government of India,
New Delhi.

2. The Divisional Personnel Officer,
Tiruchirappalli Division,
Southern Railway,
Trichchirappalli.

...Respondents

By Advocates:

M/s Ratio Legis, for the applicant.

Mr. D. Hariprasad, for the respondents.

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ORDER

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

The applicant has filed this OA under Sec.19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"...to call for the records related to impugned order No.T/F.353 Courtcase/OA No.799/2017 dated 08.08.2017 made by 2nd respondent and to quash the Railway Board letter No.RBE123/2009 dated 03.07.2009 and the impugned order dated 08.08.2017 and further to direct the respondents to pay ex-gratia pension with effect from 01.01.1986 with all the pecuniary arrears with admissible interest and further to make order/orders as this Hon'ble Tribunal may deem fit and proper and thus to render justice."

2. The brief facts of the case as stated by the applicant are as follows:

The applicant is the unmarried daughter of late P.R. Souriraja Iyengar who joined the Railway service in the year 1921 and retired from service on 01.03.1955 and died on 20.12.1972. Pursuant to the government decision to pay ex-gratia pension to the surviving CPF/SRPF retirees and the dependant family member of the expired CPF/SRPF optees orders were made in 1988 and continued with modifications suggested from time to time. With effect from 2004 when the unmarried/widowed/divorced daughters were privileged to receive statutory family pension and on coming to know about the same, the applicant has submitted representations, when the same were not responded preferred the original application no. 799/2017 and in response to the direction by this Tribunal the impugned order dated 08.08.2017 rejecting the claim was made contrary to the statutory instructions and hence this OA.

3. The grounds on which the applicant has based her prayer for relief are at para 5b and 5e of the OA and are reproduced herein below:-

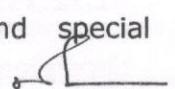
"5 b. It is reverently submitted that in as much as the



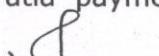
Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) on the subject of grant of ex-gratia payment to families of deceased CPF retirees has postulated that in terms of Para 3(4) of the office memorandum dated 13.06.1988 other provisions of eligibility prescribed for family pension under the CCS (Pension) Rules, 1972, though not specifically mentioned above, shall also apply for purpose of regulating grant of ex gratia payment under these orders and unmarried daughters beyond the age of 25 years were bestowed with the mandatory family pension under CCS(Pension) Rules, 1972 the letter No. RBE 123/2009 dated 03.07.2009 is impermissible in law and liable to be set aside and so the impugned order."

"5 e. It is deferentially submitted that in as much as unmarried/widowed/divorced daughters beyond the age of 25 years are entitled with the benefit of statutory family pension and ex-gratia pension is made payable under similar conditions enshrined in the CCS (Pension) Rules, 1972 and corresponding rules in the Railway Service the act of the respondents in denying the benefit of Ex-gratia pension to the unmarried daughters on completing 25 years of age in terms of RBE No. 123/2009 of 03.07.2009 is against the principles of equality enshrined in ART 14 & ART 16 of the Indian Constitution and hence non est. in law and therefore the impugned order dated 08.08.2017 is liable to be set aside."

4. Per contra, the respondents have filed a detailed reply statement wherein it is stated that the applicant has applied for family pension on 9.3.2017 duly enclosing the death certificate of her parents who died in 1972. Her father was appointed in the Railway on 1.8.1921 and retired from service on superannuation on 1.3.1955. The Railway Services (Pension) Rules, 1993 is applicable only to those persons who entered in Railway service on or after 16.11.1957 and in the case of family pension, it is applicable from 1.1.1964. State Railway Provident Fund Rules will apply to all Railway servants appointed prior to 16.11.1957 under the Government contribution and special



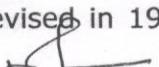
contribution to Provident Fund shall be credited only to the account of subscribers who are not pensionable and did not opt for the pension scheme or had specifically retained the provident fund scheme as a result of pension option given to persons who were in service on 1.1.1986. But in this case, the deceased Government employee retired on 1.3.1955 and opted for State Railway Provident Fund (Contributory) Rules and received all the benefits instead of pension. The V CPC recommended ex-gratia payment at the rate of Rs.600/- per month w.e.f. 1.1.1997 to the surviving SRPF(C) beneficiaries who retired between the period from 1.1.1957 to 31.12.1985 subject to the condition that such persons should have rendered atleast 20 years of continuous service prior to their superannuation. The SRPF(C) retirees who have been sanctioned ex-gratia in terms of these instructions are also entitled to Dearness Ex-gratia and Dearness Relief as per the instructions issued from time to time. The Ex-gratia of Rs.600/- per month being paid to the surviving SRPF(C) retirees revised as Rs.3000/- per month for Group 'A' services, Rs.1000/- per month for Group 'B' services, Rs.750/- per month for Group 'C' services and Rs.650/- per month for Group 'D' service plus Dearness Relief applicable to them. Further it was clarified in the RBE No.170/2006 that these instructions shall not be applicable to families of deceased SRPF(C) retirees. The entitlement of families of such deceased SRPF(C) retirees shall continue to be governed by the instructions contained in the Board's letter dated 31.12.1997. In the Board's letter dated 14.2.2001, the names of spouse and dependent children, who may become eligible for ex-gratia on the death of SRPF(C) retirees shall also be indicated in the revised ex-gratia payment



authority with further authorisation for release of ex-gratia to the spouse at Rs.605/- per month along with Dearness Relief. The payment of ex-gratia to the dependent children at the rate as applicable to the spouse as and when their turn comes shall be authorised on receipt of application from them. The Railway Board vide letter dated 3.7.2009 stated that the matter has been examined in consultation with DOP & PW and it was clarified that the provisions contained in office letter dated 18.9.2007 are not applicable to the unmarried daughters of SRPF(C) beneficiaries, who had retired from service / died in service prior to 1.1.1986 for the purpose of grant of ex-gratia beyond the age of 25 years. In the instant case the applicant is aged 74 years and not eligible for ex-gratia payment of pension.

5. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.

6. Admittedly the Ministry of Railways had introduced a Pension Scheme w.e.f 1.4.1957. The Railway employees who did not opt for the pension scheme were covered by the retirement packages known as State Railway Provident Fund (SRPF) which was a contributory scheme, similar to that of the CPF Scheme. The employer's contribution under the SRPF Scheme was paid to the employees at the time of their retirement as a lumpsum and thereafter no monthly pension was payable. However, those SRPF/CPF employees who had retired prior to the date of introduction of pension scheme after having completed atleast 20 years of continuous service were sanctioned a monthly amount ranging from Rs.15/- to 22.50/- of ex-gratia as they had no chance to opt for the pension scheme. Subsequently the benefits were revised in 1986



and 1997.

7. The Railway Board has issued order No. PC-IV/87/13/881/13 dated 30.06.1988 wherein it was held that the Office Memorandum No. 4/1/87-P&PW (PIC) dated 13.06.1988 made by the Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) on the subject of Grant of ex-gratia payment to families of deceased CPF retirees will apply to Railway employees governed by the State Railway Provident Fund Rules. The relevant provisions under the heading "Grant of Ex-gratia payment of families of deceased CPF retirees" is extracted below for better understanding of the case

"Grant of ex-gratia payment of families of deceased CPF retirees.

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3. **The sanction of ex-gratia payment will be subject to the conditions:-**

(1) The Ex-gratia payment shall be admissible to the following members of the family for the period indicated against each:-

(i) Widow/widower:- The ex-gratia payment shall be tenable in her/his case for life or until her/his re-marriage, whichever is earlier.

NOTE:- employment/re-employment of the widow/widower will be no bar to her/his entitlement to the ex-gratia payment under these orders. However, dearness relief on the ex-gratia payment shall not be payable during the period of employment/re-employment under the Central/State Government or any Body/Corporate/Autonomous Body/Public Sector Undertaking belonging to the Central/State Government.

(ii) Sons upto the age of 25 years or until they are employed, whichever is earlier.

(iii) Unmarried daughters upto the age of 25 years or until they are employed or their marriage whichever is the earliest.

(2) The ex-gratia payment shall not be payable to more than one member of the family at the same time. IF the deceased CPF beneficiary has left behind a widow or widower, the ex-gratia payment shall be payable to the widow or widower, failing which to the eligible ward.

(3) Where the ex-gratia payment is granted under these orders to a minor, it shall be payable to the guardian on behalf of the minor.



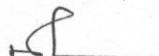
(4) The other provisions of eligibility prescribed for family pension under the CCS (Pension) Rules, 1972, though not specifically mentioned above, shall also apply for purpose of regulating grant of ex-gratia payment under these orders.

(5) Where the members of the family are in receipt of family pension under the Extraordinary Pension Rules, the ex-gratia payment under these orders shall not be admissible."

8. The deceased Government employee retired from service on 01.02.1955 and opted for State Railway Provident Fund (Contributory) Rules and received all the benefits instead of pension. The applicant is not a disabled child of the deceased Government employee and hence not eligible for family pension. The claim of the applicant for grant of ex-gratia payment was examined with reference to the OM of DOP & PW and it was found that the provisions contained in Office letter dated 18.9.2007 are not applicable to the unmarried daughters beyond 25 years of age of the deceased Government employee/SRPF(C) beneficiary who retired from service/died prior to 01.01.1986 for the purpose of grant of ex-gratia pension. The applicant is aged 74 years and was not found eligible for ex-gratia pension.

9. The Ernakulam Bench of the Central Administrative Tribunal in OA.735/2009 had examined a similar claim of the applicant therein for grant for exgratia pension to unmarried daughters beyond 25 years of the SRPF(C) beneficiaries and after going through the clarification issued by the Railway Board in its letter dated 3.7.2009 (RBE.123/2009) held that the applicant is not entitled to the family pension. The relevant portion of the letter dated 3.7.2009 reads as follows:-

"1. Sub: Grant of Ex.Gratia Payment to unmarried daughters of SRPF(C) beneficiaries who had retired from service/died in service prior to 01.01.1986.



Consequent upon circulation of Department of Pension & Pensioners' Welfare (DOP&PW's OM No.1/19/03-PG&PW(E) dated 6th September, 2007 on the Railways vide this office letter No.P(E).II/2007/PN 1/5 dated 18.09.2007 extending the scope of family pension to unmarried daughters of Railway servants/pensioners even after attaining the age of 25 years at par with the widowed/divorced daughters, references have been received seeking clarification as to whether the benefit of the said instructions is also admissible to the unmarried daughters of SRPF (Contributory) retirees for the purpose of grant of ex-gratia payment.

The matter has been examined in consultation with DOP&PW and it is clarified that the provisions contained in this office letter dated 18.09.2007 referred to above are NOT applicable to the unmarried daughters of SRPF(C) beneficiaries, who had retired from service/died in service prior to 01.01.1986 for the purpose of grant of ex-gratia beyond the age of 25 years."

Further the Railway Services (Pension) Rules, 1993 is applicable only to those persons who entered into Railway service on or after 16.11.1957 and in the case of family pension, it is applicable only from 01.01.1964.

10. The request of the applicant for ex-gratia payment of pension was denied based on the Railway Board's letter dated 3.7.2009. Further the applicant is not a family pensioner. Hence the comparison with family pensioners is untenable. The rules are framed by the President of India in exercise of powers under Arc.309 of Indian Constitution and such rules having force of law. The respondent Railway cannot travel beyond the rule framed for a specific purpose. Hence rejection of ex-gratia pension beyond 25 years is not against law.

11. In view of the above facts and circumstances and instructions of the Railway Board, the relief prayed for by the applicant cannot be acceded to. The OA is liable to be dismissed and is accordingly dismissed as devoid of merits. No costs.