

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 14th day of March Two Thousand And Nineteen

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

O.A. 310/1567/2016

S. Shafeunnesa,
27B, Puthu Nagar,
Thattankuppalani
Palani- 624 601.

....Applicant

(By Advocate: Mr. M. Udayasankar)

Versus

1. Union of India Rep. by
The General Manager,
Southern Railway,
Head Quarters Office,
Park Town P.O.,
Chennai- 600 003;
2. The Senior Divisional Finance Manager,
Southern Railway,
Madurai Division,
Madurai;
3. The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhavan,
New Delhi- 110 001;
4. The Secretary,
Department of Pension & Pensioners Welfare,
Ministry of Personal, Public Grievances and Pensions,
3rd Floor, Lok Nayak Bhawan,
Khan Market, New Delhi.Respondents

(By Advocate: Mr. P. Srinivasan)

ORAL ORDER
(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Applicant has filed this OA seeking the following reliefs:-

"(i) Call for the records leading to the issue of Annexure A, A2 and A3 and quash the same (Annexure A1 Order No. P500/MDU/PN/8608201679 dated 25.11.2014; Annexure A2 RBE NO. 109/2014, No.F(E)III/2007/PN1/5 dated 30.09.2014 and Annexure A3 No.1/13/09-P&PW (E) dated 18.09.2014.)

(ii) Direct the Respondents to continue to grant the applicant the benefit of family pension till her death/re-marriage as the case may be;

(iii) Award costs of and incidental to this application."

2. The grievance of the applicant is that although she was granted family pension with effect from 11.3.2006 by Annexure -A6 communication dated 11.06.2009 as the widowed daughter of Late Syed Abdul Lathif Madani at Rs. 3500+ Relief from 11.03.2006 till her life time or remarriage or earning an income of Rs. 3500/- whichever is earlier, the same was stopped suddenly with effect from 25/27.11.2014 without any previous notice and without giving opportunity to show cause thereagainst. The applicant being a widowed senior citizen did not have adequate means of subsistence except for family pension and is accordingly put to substantial prejudice, irreparable injury, monthly recurring losses leading to distress and destitution.

3. It is contended that by Annexure-A4, Department of Pension and Pensioners Welfare, O.M. dated 30.08.2004, divorced/widowed daughters were made eligible for family pension even-after attaining the age of 25 years. By Annexure A7 O.M. dated 28.04.2011 of the same department,

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the benefits of family pension were extended to widowed/divorced/unmarried daughters with effect from 30.08.2004 in cases where the death of the government servant /pensioner had occurred before this date.

4. Anneuxre-A/8 OM dated 11.09.2013 clarified the eligibility of widowed/divorced daughters for grant of family pension. It was stated that family pension would only be payable to the daughter who was widowed/divorced at the time of death of the government employee. Although it was also stated that it was only a clarification and the entitlement of widowed/divorced daughters would continue to be determined in terms of OM dated 25/30 August, 2004 read with O.M. dated 28.4.2011, the 4th respondent took a view that the clarification implied that the family pension paid to the applicant should be discontinued and took action accordingly.

5. Respondents have filed a reply contesting the claim of the applicant for family pension. It is submitted that action was taken to discontinue the family pension paid to the applicant as the Ministry of Railways by letter dated 30.09.2014 clarified the eligibility of widowed/divorced daughters for the grant of family pension in terms of the OM dated 18.09.2014 of the Department of Pension and Pernsioner's Welfare. It was stated that if a daughter became divorcee/widowed during the period when the pension/family pension was payable to her father/mother such a daughter on fulfilment of other conditions shall be entitled to family pension.

6. In view of the clarification, the question of continuing family pension paid to the applicant did not arise as admittedly the applicant was not widowed during the life time of her father. It is also submitted that

Ernakulam Bench of this Tribunal had dismissed OAs. No. 1041, 1047, 1106, 1132/2014 and 01, 13, 332/2015 filed by similarly placed persons against the stoppage of family pension in terms of the Office Memorandum dated 18.09.2014 by its order dated 12.07.2016. Accordingly, the applicant is not entitled the relief sought in the O.A.

7. I have considered the facts of the case and perused the order of the Ernakulam Bench of this Tribunal dated 12.07.2016 in the aforesaid OAs. The applicant has challenged the decision of the respondents to stop her family pension essentially on the ground that no previous notice was issued to her to show cause against the proposed action. The observations of the Ernakulam Bench in this regard in the aforesaid OA is reproduced below:-

"18. Mrs. Kala T. Gopi, Advocate for the applicants submitted that no notice was given to the applicants before the impugned orders withdrawing the family pension were issued by the respondents. She submitted that there is a violation of natural justice in the matter of the sudden discontinuance of the family pension which was enjoyed by the applicants till then. It is well settled position that the principles of natural justice cannot be applied in a strait jacket formula and the same will depend on the facts and circumstances of each case. It is also settled law that the principles of natural justice that no one shall be condemned unheard will have no application if no useful purpose is served by giving such opportunity. In this case the applicants have been enjoying family pension which was in fact not entitled to them on account of the lack of dependency on their parents, as they became widowed or divorced during only after the life time of the parent pensioner. Even if an opportunity of being heard was given to the applicants, the situation would not have improved.



19. We, therefore, hold that Annexure A4 and the impugned orders are not ultra vires the rules. We do not find any unconstitutionality or violation of any constitutional limitations in the impugned orders."

8. Keeping in view the above and the fact that in this OA the applicant has not claimed that she was widowed before the death of her father, I am unable to find fault with the action taken by the respondents in stopping the family to the applicant which she was not entitled to in the first place. The OA is devoid of merits and accordingly dismissed. No costs.