
(2025) 05 CAT CK 0304

In the Central Administrative Tribunal, Allahabad Bench, Allahabad

Case No : Original Application No. 1326 Of 2018

Rewati Devi

APPELLANT

Vs

Union Of India Through Divisional Railway Manager, North
Central Railway, Jhansi Division & Ors.

RESPONDENT

Date of Decision : 07-05-2025

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution Of India, 1950 — Article 31(1)

Citation : (2025) 05 CAT CK 0304

Hon'ble Judges : Rajiv Joshi, Member (J)

Bench : Single Bench

Advocate : D.C. Dwivedi, S.D. Dwivedi, Subhash Chandra Mishra

Final Decision : Dismissed

Judgement

Rajiv Joshi, Member (J)

1. Heard Shri D.C Dwivedi assisted by Shri S.D. Dwivedi, learned counsel for the applicant and Shri Subhash Chandra Mishra, learned counsel for the respondents at the time of hearing.

2. This Original Application is filed under section 19 of the Administrative Tribunal Act, 1985, seeking following reliefs:-

8 (1) That the Hon'ble Tribunal may graciously be pleased to pass the direction and quash the rejection letter dated 30.05.2018 issued by the respondent no.2, Divisional Railway Manager (Personnel), N.C. Railway, Jhansi

(2) That the Hon'ble Tribunal may graciously be pleased to pass the direction commanding the respondent no.2, Divisional Railway Manager (Personnel), N.C. Railway, Jhansi to provide the family pension in favour of the applicant as all the dues of family pension with interest.

(3) That the Hon'ble Tribunal may graciously be pleased to issue any order or

direction, which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

(4) That the Hon'ble Tribunal may graciously be pleased to allow heavy cost in favour of the applicant.

3. The brief facts of the case are that the applicant is wife of Late Natthi Lal, who was appointed as Gangman in 1980 and regularized in services on 1982 and medically de-categorised in 1995. After de-categorization, the husband of the applicant was died on 19.11.1997 due to Paralysis. Thereafter, the applicant approached several times for grant of family pension, but no heed was paid. Lastly, the applicant filed a detailed representation on 30.09.2017 to the respondent-2, but the respondents are sitting tight over the matter.

3.1 Aggrieved by the action of the respondents, the applicant earlier approached this Tribunal by filing O.A. No.1572/2017, which was disposed of vide order dated 27.02.2018 with a direction upon the respondent-2 to decide the representation of the applicant, within a period of three months from the date of receipt of a copy of this order.

3.2 In view thereof, the respondent-2 passed an order dated 30.05.2018, which was also communicated to the applicant, by which, the claim of the applicant regarding family pension has been denied on the ground that service period of the deceased employee was not above 10 years. The order dated 30.05.2018 is impugned in this Original Application.

4. On the other hand, the Respondents have filed counter affidavit on 27.01.2021, wherein it is stated that the husband of the applicant was working as Monthly Rated Casual Labour (hereinafter referred as MRCL) from 08.02.1982 and later on, he was posted as Gangman in the pay-scale of Rs.200-250 w.e.f. 22.07.1987. However, the husband of the applicant, while working as Gangman, was declared medically unfit on 04.11.1992 by the competent Medical Officer. Hence, the husband of the applicant was settle-up from Railway services vide order dated 04.11.1992.

4.1 Subsequently, the son of employee was granted appointment on compassionate ground on 18.10.1995 under the respondents to the post of Gangman after the verification of the selection Committee. The husband of the applicant had worked as MRCL w.e.f. 08.02.1982 to 21.07.1987 and as such, he worked only five years, 5 months & 14 days. Thereafter, he was posted on regular basis to the post of Gangman on 22.07.1987 to 04.11.1982 and as such, he completed about 5 years, 3 months & 12 days.

4.2 As per Railway Service Rules, the half service of MRCL working is considered and calculated for qualifying period, which comes 2 years 11 month & 7 days and working period of Gangman is 5 years, 3 months & 12 days. The period of unauthorized absence and leave without pay i.e. $416 + 1/2 = 1$ years, 1 month & $10 + 1/2$ have also been calculated and deducted from the qualifying period. Thus

total qualifying period of the applicant's husband is found as 6 years, 10 months & 14+1/2 days, which is less than 10 years of service and as such, the husband of the applicant was not entitled for pension. Since the deceased employee was not entitled for pension, the applicant, who is widow of deceased employee is not entitled for family pension. Hence, this Original Application is liable to be dismissed.

5. Rejoinder Affidavit was also filed by the applicant on 05.02.2024, reiterating the same averments as made in the Original Application. However, it has been stated that the respondents have not calculated the service period of the husband of the applicant properly. The husband of the applicant was appointed in 1980 and regularized in 1982 and medically de-categorized in 1995 and as such, he completed more than 10 years of service under the respondents.

6. Learned counsel for the applicant assailed the impugned order on the ground that the respondents have not calculated the service period of the husband of the applicant properly. The husband of the applicant was appointed in 1980 and regularized in 1982 and medically de-categorized in 1995 and as such, he completed more than 10 years of service under the respondents. The claim of the applicant for grant of family pension has not been considered in the light of Rules/Guidelines/Circulars of the Establishment.

6.1 Learned counsel for the applicant further submitted that it is settled law that if any temporary employee of the Railway had worked continuously for more than six months, his widow/minor children are entitled for family pension. In this regard, he placed heavy reliance on the Judgment of Apex Court in case of Prabhavati Devi Vs. Union of India, reported in AIR SC 752. He further submitted that pension is not a bounty payable on the sweet will and pleasure of the Government and it is right of an employee under Article 31 (1) of the Constitution of India and State/Government cannot withhold the same by mere an executive order. In this regard, learned counsel placed reliance on the judgment of Apex Court in case of State of Punjab & Anr. Vs. Iqbal Singh, reported in AIR 1976 SC 667.

6.2 Learned counsel for the applicant further submitted that the applicant is entitled for 12 % interest on the family pension from the date of death of employee. In this regard, learned counsel for the applicant also placed reliance on the following judgment of High Court regarding interest on delayed payment of pension/family pension:-

- a) Smt. Qamar Jahan Vs. State of U.P. & Ors., reported in 2008 (2) ESC 977 (All)
- b) Smt. Sampatti Devi Vs. State of U.P., reported in {2005 (61) ALR 412}

7. On the other hand, learned counsel for the respondents opposed the contention of the learned counsel for the applicant and submitted that the husband of the applicant had not completed 10 years of compulsory qualifying service and as such, he was not entitled for pension. Since the original employee

was not getting the pension, the applicant, who is widow of deceased employee is also not entitled for family pension. There is no illegality or infirmity in the impugned order.

8. I have considered the arguments, so raised by learned counsel for both parties and perused the records.

9. From perusal of records, it reflects that the husband of the applicant was engaged as MRCL from 08.02.1982 and thereafter, he was posted as Gangman w.e.f. 22.07.1987. However, the husband of the applicant, while working as Gangman, was declared medically unfit on 04.11.1992 by the competent Medical Officer. Thereafter, he was died in the year, 1997, but he was not granted pension as no document has been brought on record by learned counsel for the applicant, which shows that he was getting pension. Subsequently, the applicant, who is widow of the deceased employee filed several representations for grant of family pension, but the respondents vide impugned order dated 30.05.2018 rejected the claim of the applicant for grant of family pension. For better appreciation of the matter, the relevant part of impugned order dated 30.05.2018 is quoted as under:-

10. Further, it reflects from the records that the husband of the applicant has never been granted pension as learned counsel for the applicant failed to produce any document, which shows that the husband of the applicant was ever granted pension. The husband of the applicant decategorized from employment in the year, 1992 itself and died in the year, 1997, but he never approached this Court or before the respondents for grant of pension. The respondents have also recorded their findings in the impugned order that the husband of the applicant has not completed minimum 10 years qualifying service as per Rule, the husband applicant was not found eligible for pensionary benefits. The said finding of the respondents in order dated 30.05.2018 in my view, is in consonance with the provisions pertaining to grant of pension under the Railway Servants (Pension) Rules, 1993. For better appreciation of the matter, said Rule is quoted as under:-

18. Pensionary, terminal or death benefits to temporary railway servant. - (1) :-A temporary railway servant who retires on superannuation or on being declared permanently incapacitated for further railway service by the appropriate medical authority after having rendered temporary service not less than ten years shall be eligible for grant of superannuation, invalid pension, retirement gratuity and family pension at the same scale as admissible to permanent railway servant under these rules.

11. Further, It is further noticed that it is apt to note that except his inconsistent pleadings in different paras in the memo of O.A. stating that the husband of the applicant was engaged in 1980 in place of 1982, but no supportive documentations are placed on record.

12. Since, the husband of the applicant was not granted the pensionary benefits, the applicant is also not entitled for family pension. There is no illegality or

infirmity in the impugned order. The judgment relied upon by the learned counsel for the applicant in case of Prabhavati Devi Vs. Union of India (supra) is not applicable in the instant case as in the said Judgment, the Apex Court has held that the widow/minor children of a temporary Railway servant, who dies while in service after a service of not less than 1 year continuous (Qualifying) service shall be eligible for a family pension under the provisions of para 801 of the Manual of Railway Pension Rules. However, in the present case, the husband of the applicant was not died in harness rather he was de-categorized medically in the year, 1992 and after five years of de-categorization died, meaning thereby, he was not in service when he died. Since the applicant is not entitled for family pension, the other judgments relied upon by the applicant regarding interest is also not relevant in this case.

13. In view of the foregoing discussions, this Court finds that no merit in the instant case and as such, Original Application is liable to be dismissed. Accordingly, instant Original Application stands dismissed.

14. All pending MAs stand disposed of accordingly. No order as to costs.