
(2016) 11 GAU CK 0055
In the Gauhati High Court
Case No : Writ Petition (C) No.6944 Of 2016

Sukurmoni Goala

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 21-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 NEJ 262

Hon'ble Judges : Mr. Ajit Singh, CJ. And Kalyan Rai Surana, J.

Bench : Division Bench

Advocate : Mr. A K Sarkar, Learned Standing Counsel, for the Railways; Ms. M. Hazarika and Ms. K. Gogoi, Learned Counsel, for the Petitioner

Final Decision : Dismissed

Judgement

Ajit Singh, C.J. - Ms M. Hazarika and Ms. K. Gogoi, learned Counsel for the petitioner. Mr. A. K. Sarkar, learned standing counsel for Railways.

Heard on admission.

2. This petition under Article 226/227 of the Constitution is directed against the order dated 7.10.2015 passed by the Central Administrative Tribunal, Guwahati Bench, whereby it has dismissed petitioner's O.A. No.323 of 2015. Petitioner's husband Paramaraj Goala worked as Gangman in the Railways. He retired from service on 1.6.1978 and died on 24.6.1980. During his life time, Paramaraj did not get any pension. However, after his retirement, the petitioner applied for family pension. Since she did not receive any positive response from the respondents, she filed O.A. No.182 of 2015 before the Tribunal, which was disposed of with a direction against the respondents to decide her claim for family pension. Pursuant to the direction of the Tribunal, General Manager (P), Maligaon passed the following order dated 7.8.2015:-

"In compliance to the Hon'ble CAT/GHY's order explained above, the representation dated 20.04.2014 has been examined. It is learnt that the

applicant has submitted no specific prayer/relief in her representation. However, after going through the petition of O.A. -46/2008, E.P.-II/2008. O.A.-180/2015 and other records of the case, it is observed that she has submitted her representation of Rs.1437.38 and to release arrear pension amount of the applicant's husband.

It is observed that late Paramraj Goala was working as Gangman/Gang No.16 under DEN/III/LMG. It is pertinent to mention here that the Pension System for Railway Servants was introduced on the 16th day of November, 1986. Within the period from 1957 to 1986 employees were required to submit option for joining pension system and they were called SRPF (Non-Contributory) Staff. The employees who did not submit option for joining pension system were called SRPF (Contributory) Staff. SRPF(NC) employees were eligible for pension after retirement whereas SRPF(C) employees were not eligible for pension after retirement. Pension system was modified with effect from 1st day of January, 1986 and the pension scheme was made mandatory for all employees i.e. SRPF(NC) unless he submitted an option for keeping him out of Pension system i.e. SRPF(C).

During service period, Sri. Paramraj Goala had never opted for keeping himself in pension system and, therefore, he was kept in SRPF(C) and the same was reflected in DS(P)/LMG now DRM(P)/LMG's letter No.EW/IIX(FS)76 dated 07.07.1976. That's why pension was not sanctioned to him after his retirement from service on 01.6.1978. Since the employee was not in pension scheme the applicant being widow of deceased employee is also not eligible for family pension.

Further, records regarding payment of special contribution to the PF(Rs.1437.38) sanctioned in the year 1981 have been scrutinized thoroughly and it is learnt that the said amount was returned into Railway account and remains unpaid. The following documents are required to be submitted by the applicant for paying the unpaid amount.

1. Death Certificate
2. Heirship certificate
3. Surviving family member certificate
4. Bank details
5. MOP
6. Nominee details

In view of the above observations and discussion, it is to inform that you are not entitled for family pension because your husband was a SRPF(C) employees as he had never opted for pension scheme during his service period. It is also to inform that Sri. Monoranjan Das working under C&W/LMG was a SRPF(NC) employee and, therefore, he was entitled for pension after retirement. That is,

your case is different from that of Sri. Monoranjana Das.

Further, for payment of special contribution to the PF (Rs.1437.38). You are requested to submit above mentioned documents as early as possible.

This disposes off your representation dated 30.04.2014."

3. Dissatisfied that the above quoted order dated 7.8.2015, the petitioner again filed O. A. No. 323/2015 which the Tribunal dismissed by the impugned order.

4. Paramraj Goala, during his life time, did not receive any pension. He had also not opted for pension while in service. Therefore, he was not entitled for the same. This being the situation, the petitioner's claim for family pension has been rejected. Nothing was produced before the Tribunal to establish denial of family pension to the petitioner vide order dated 7.8.2015 was contrary to any Rule. As regards submission of petitioner that another Gangman, namely, Monoranjana Das was given the benefit of pension, the General Manager has held that he was eligible for the same because he had opted for joining pension system. The case of Monoranjana Das was, thus, found to be different from that of petitioner's husband. For these reasons, we find no good ground to interfere with the impugned order.

5. The petition has no merit and is accordingly dismissed.