(2000) 08 KAR CK 0082

In the Karnataka High Court

Case No : Writ Petition No. 25787 of 1999

Yellamma APPELLANT

Vs

The Karnataka Electricity Board RESPONDENT

Date of Decision : 04-08-2000

Acts Referred:

Karnataka Civil Services Rules, 1974 — Rule 294A, 294B

Citation : (2000) 4 KCCR 2469

Hon'ble Judges : A.V. Srinivasa Reddy, J

Bench : Single Bench

Advocate : T.V. Narayana, for the Appellant; Harikrishna S. Holla, for the Respondent

Final Decision : Allowed

Judgement

A.V. Srinivasa Reddy, J.—The Petitioner who is the widow of one later Sri Ramappa has preferred this writ petition claiming grant of family pension from the Respondent-Karnataka Electricity Board (the ''Board'' for short).

2. The brief facts leading to the filing of the writ petition are as follows:

Late Ramappa was an employee of the Respondent-Board and he died on 28.3.1962 of cancer while still in service. He had at the time of his death put in more than 1 year of service in the Board. The State Government had passed an order bearing No. FD:SPL:52:PET:75, dated 1st April, 1975 according sanction for the payment of family pension to the families of Government Servants who died while in service after 31.10.1956 and before 2.9.1968. The Board also had adopted the terms of the above Government Order under the Board Order No. KEB:A1:75:75-76, dated 15.5.1975. As Ramappa died on 28.3.1962 the Petitioner submitted an application to the Board on 15-12-1994 explaining the reason for the delay in approaching the Board for pension. The reason given by the Petitioner was that she came to know of the said order only in the year 1994 and immediately thereafter she submitted the application for pension. It is the case of the Petitioner that she had submitted all the relevant documents that were in her possession to enable the Board to grant her the pension. Her application was forwarded to the Chief Controller of Finance who had rejected her claim for family pension on the ground that the family of a deceased employee would not be entitled for pension unless the employee had put in 20 years of service in the Board. This was conveyed to her by the Executive Engineer of the Board. Aggrieved by the rejection of her prayer for pension, the Petitioner has filed this writ petition.

3. I have heard the learned Counsel on both sides.

4. The Petitioner has produced at Annexure-A the copy of Government order dated 1st April, 1975 sanctioning family pension to certain categories of pensioners to whom the benefit was not available hitherto. An amendment was made to Rule 294-B of the Karnataka Civil Services Rules to bring certain class of Government Servants under the fold of persons whose families would be entitled for family pension. The deceased husband of the Petitioner is covered by Clause (ii) of the said Government Order which reads:

ORDER

Sanction is accorded to the Extension, with effect from 1.4.1975 of the benefit of Family Pension under Rule 294-B of the Karnataka Civil Services Rules to the families of the following Categories of Government Servants and pensions including those who have received or are receiving Family Pension under Rule 294-A of the Karnataka Civil Services Rules:

(i) ...

(ii) Government Servants who-

(a) Retired after 31.10.1956 and before 2.9.1964; and

(b) Died after 31.10.1956 and before 2.9.1968

The deceased Ramappa having died on 28.3.1962 which falls between the two relevant dates i.e. 31.10.1956 and 2.9.1964, the family of the deceased Ramappa would be entitled for family pension. That the Petitioner is entitled to family pension in terms of the above Government Order is beyond dispute. The only objection taken by the Respondents in this regard is that the Petitioner having remained quiet for nearly 20 years the writ petition filed in the year 1999 suffers from laches and delay and, therefore, is liable to be dismissed. This objection is bereft of merit as Section 9 of the said Government Order makes it abundantly clear that there is no time limit for preferring such applications. The relevant Section 9 is extracted herein below:

According to conditions (a) in Rule 294-B(i) of the Karnataka Civil Services Rules the application for the benefit of family pension under the rule had to be preferred to the Accountant General on or before 31.12.1974. In all these cases the time limit is hereby extended beyond 31.12.1974 and there will be no time limit for preferring such application.

Hence, the solitary ground urged by the Respondent for rejecting the prayer in the writ petition is bereft of any merit and is liable to be brushed aside.

5. That leaves me with the question as to from what date the Petitioner could be held entitled for grant of family pension. The Apex Court had occasion to deal with a similar matter in Bhagwanti Mamtani v. Union of India wherein the Petitioner had approached the Central Administrative Tribunal claiming family pension after a lapse of 10 years. The Apex Court having found that the Petitioner was eligible for family pension, however, limited the entitlement for the period from May 1986 when the Petitioner therein approached the Central Administrative Tribunal. The observation made by the Apex Court limiting the period as aforesaid, reads:

We are, however, of the view that the interest of justice would be met if we direct the Government of India to grant family pension to the Appellant from May 1986 when she approached the Central Administrative Tribunal, New Delhi. Under the circumstances, we direct the Government of India to grant family pension to the Appellant with effect from May 1, 1986.

In the case on hand the Petitioner has approached this Court only in the year 1999. But, the application claiming family pension was given by her to the Board on 15.12.1994. Though she would be entitled to the family pension from 1.4.1975 when the Government Order came into force. I think the interest of justice would be met if family pension is granted to her from 15.12.1994 when she approached the Board with an application for grant of family pension.

6. In the result, for the reasons stated above, I allow the writ petition.

The Respondent shall calculate and pay to the Petitioner family pension with effect from 15.12.1994. The arrears of family pension shall be paid within a period of six months from today. In case the arrears are not paid within the said period of six months the Petitioner would be entitled to interest at the rate of 12% per annum from the date when the period of six months expires.

