

\$~17.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9967/2017**

ANJALI PURI

..... Petitioner

Through: Ms. Jagriti Singh and Ms. Mamta Nagar,
Advocates

versus

MINISTRY OF RAILWAYS & ANRS

..... Respondents

Through: Mr. J.K. Singh and Ms. Madhulika
Aggarwal, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **24.07.2018**

1. The petitioner is aggrieved by the judgment dated 18.08.2017 pronounced by the Principal Bench, Central Administrative Tribunal, New Delhi, dismissing O.A. No.1247/2016 filed by her for quashing/setting aside the order dated 12.01.2016, whereunder she was informed that she is not entitled for ex gratia pension as a third beneficiary on the demise of her father, an employee of the respondent/Railways, who expired in the year 1962 and on the subsequent demise of her mother, a second beneficiary, on 25.06.2004.

2. On a perusal of the impugned order, it transpires that the Tribunal has only examined the aspect of delay and laches and without going into the

merits of the case and dismissed the O.A. on the ground that there was no explanation offered by the petitioner for a delay of nine years in approaching the Tribunal for relief.

3. Though no such plea has been taken by the petitioner in the grounds of appeal before us, learned counsel for the petitioner fairly states that if the petitioner is heard on merits and she succeeds before the Tribunal, then she is ready and willing to confine the monetary relief to a period of three years reckoned backward from the date of institution of O.A. No.1247/2016.

4. Learned counsel for the respondent submits that if the matter is sent back to the Tribunal for a decision on merits, the respondent will find it difficult to produce the relevant records as the case relates to the year 1962, when the petitioner's father had expired and family pension was granted on 01.01.1964.

5. We are of the opinion that since the respondent does not deny the entitlement of the petitioner's mother to family pension, which was being granted to her till she expired on 25.06.2004, any claim of the petitioner as a third beneficiary on the demise of her mother would still survive since the period of 15 years, which is a mandatory period for the respondent to retain the records, would have to be reckoned from 25.06.2004 and the said period would end only on 24.06.2019. In any case, the relief for grant of pension being a recurring cause of action, the law of limitation cannot be construed strictly for non-suiting the petitioner. The offer made by learned counsel for the petitioner of confining the monetary relief to a period of three years reckoned from the date of filing of the O.A. before the Tribunal, is found to be a reasonable one. The petitioner shall remain bound by the same.

6. In view of the observations made hereinabove, the impugned order dated 18.08.2017 is quashed and set aside. The matter is remanded back to the Tribunal for a fresh adjudication on merits. The parties shall appear before the Registrar of the Tribunal on 13.08.2018, for a date to be fixed for arguments before the Tribunal.

7. The petition is disposed of.

HIMA KOHLI, J

REKHA PALLI, J

JULY 24, 2018

rkb/na