

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3551 OF 2020

Union of India, through General Manager
Central Railway, Mumbai CST & Anr.

... Petitioners

versus

Kamal Vitthal Zalte

.. Respondent

Mr. T.J. Pandian a/w. Mr. T.C. Subramanian, Mr. Dheer Sampat
and Mr. Shivam singh for the petitioner/UOI.
Mr. Rajendra P. Saxena a/w. Mr. Anurag R. Saxena for the
respondent.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- FEBRUARY 25, 2021.

PC :

1. This writ petition is directed against a judgment and order dated October 24, 2019 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai whereby O.A. No. 171 of 2007 (Kamal Vitthal Zalte vs. Union of India & Ors.) along with other original applications was allowed by passing the following order:

"36. In view of the relevant Rules and binding precedents, we are of the considered view that the above OAs deserves to be allowed and the same are accordingly allowed with following directions:

- (i) the respondents are directed to count the services of their ex-employees in the aforesaid OAs rendered in the capacity of the temporary status till the

regularization as 100% qualifying service for the purpose of pension and other pensionary benefits.

- (ii) the respondents are further directed to count 50% of the services of the ex-employees in the aforesaid OAs before grant of temporary status to them as qualifying service for the purpose of pension and other pensionary benefits.
- (iii) the respondents shall pass necessary orders keeping in view the above at (i) and (ii).
- (iv) in view of the above, respondents shall also consider and pass necessary order regarding claim of family pension to the legal heirs in accordance with the relevant rules.
- (v) the applicants shall be entitled for the arrears of pension, family pension as admissible under the relevant rules with interest at rate of 6% p.a. on the aforesaid arrears of pension and family pension, from the dates when they became due.
- (vi) T-he aforesaid exercise shall be completed by the respondents within 90 days of receipt of a certified copy of this order."

2. While hearing the writ petition for the first time on October 27, 2020, we had required the petitioners to calculate the quantum of pension and other retiral benefits to which the respondent would be entitled, if the impugned order of the Tribunal were to be given full effect. In terms of such order,

the petitioners have placed on record two statements, which are taken on record and marked 'Exhibit-X' for identification.

3. It appears from such statements that the respondent would be entitled to Rs.14,26,705/- on account of arrears of pension that had accrued in favour of her late husband as well as on account of family pension and further that she would be entitled to pension in a sum of Rs.10,530/- per month inclusive of admissible DA. It also appears that the respondent would be entitled to balance amount of death-cum-retiring gratuity in a sum of Rs.11,134/-.

4. We expressed surprise at the petitioners' attempt to deny the respondent, a septuagenarian widow, of financial benefits. Reacting to our query as to why the petitioners had invoked the writ jurisdiction of this Court to deprive her of such paltry sums, Mr. Pandian, learned advocate for the petitioners very fairly submits that the petitioners would be satisfied if an observation is made by the Court to the effect that the impugned judgment and order of the Tribunal shall not be treated as a precedent in future cases.

5. Having regard to such submission and particularly in view of the paltry sums which the respondent would be entitled to, if we refuse to interfere with the impugned judgment and order under challenge, we dispose of this writ petition by refusing to interfere with such judgment and order; however, we observe that such refusal to interfere shall neither be construed as affirmance of the said judgment and order nor shall it be treated as a precedent. The contentions raised by the petitioners on merits are left open for being adjudicated in an appropriate case, if the occasion therefor arises in future. There shall be no order for costs.

6. Let the financial benefits be released in favour of the respondent as early as possible but positively within two months from date.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)