

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1403 of 2018

Smt. Rukmini Devi Petitioner

Versus

1. Union of India through the General Manager,
East Central Railway, Hazipur, Bihar, P.O. & P.S. Hazipur,
District Hazipur.
 2. The Divisional Railway Division, East Central Railway,
Dhanbad, P.O., P.S. & District Dhanbad
 3. The Senior Personnel Officer, Dhanbad Railway Division,
East Central Railway, Dhanbad, P.O., P.S. & District Dhanbad
- Respondents

CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MR. JUSTICE DEEPAK ROSHAN

Through Video Conferencing

For the Petitioner : Mr. Ashok Kr. Jha, Advocate
For the Respondents : Mr. Prabhash Chandra Sinha, Advocate

08/03.01.2022 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. Petitioner is the widow of one Late Ram Jatan Pathak, who died in harness on 28th October, 1993 while working as a Master Craftsman in the scale of Rs.1400-2300/- under 4th Pay Revision. She is aggrieved by dismissal of the Original Application No.051/00002/2017 vide order dated 12.01.2018, passed by the Central Administrative Tribunal, Patna, circuit bench, Ranchi (Annexure 8), whereby claim for revision of family pension in the scale of "Master Craftsman" i.e. Rs.9300-34800/- (Grade Pay-Rs.4200) as per 6th Central Pay Commission with effect from 01.01.2006 and also for payment of arrears of family pension with statutory interest has been declined.

3. Learned counsel for the petitioner has drawn the attention of this Court to Annexure-3 which is a communication dated 25th November, 2009 and Annexure-7 which is an information furnished under R.T.I. dated 13th February, 2018. According to the petitioner, pay scale of her husband ought to have been fixed in the revised scale of Rs.5000-8000/- under 5th P.R.C. and thereafter in the scale of Rs.9300-34800/- with grade pay of Rs.4200/- under 6th P.R.C.

w.e.f. 01.01.2006 which would entail consequential revision in her family pension.

4. Learned Tribunal, has considered the plea of the petitioner in the light of the rival stand of the parties in the following manner:

“10. It is admitted position that the applicant’s husband died while in the scale of Rs.1400-2300/-. The main question to be examined in this matter is whether this scale was revised to Rs.4500-7000/- or Rs.5000-8000/- in the 5th CPC. We have perused the Railway Service (Revised Pay) Rules, 1997 notified vide RBE No.133 of 1997 dated 08.10.1997 by which the 5th Pay Commission recommendations were implemented. It’s First Schedule (referring to Rule 3 and 4) gives a table of pre-revised pay scales (1.1.1986) and the corresponding revised pay scale (w.e.f. 01.01.1996). This table is incorporated in Annexure R/1 filed by the respondents which is taken from the OM No.38/37/08-P&PW (A) dated 14.10.2008 of Department of Pension and Pensioner’s Welfare. The relevant extracts from this Annexure is given below:-

REVISED PENSION BASED ON REVISED PAY BANDS AND GRADE PAYS FOR POSTS CARRYING PRESENT SCALES IN GROUP ‘A’, ‘B’ ‘C’ & ‘D’

AS PER SIXTH CENTRAL PAY COMMISSION

(Refer para 4 of OM No.38/37/08-P & PW(A) dated 14.10.2008 of D/o Pension & PW)

Sl. No.	Pay scale w.e.f. 01.01.1986	Post/Grade and pay scale w.e.f. 1.1.1996		Name of Pay Band/ scale	Corresponding 6 th CPC Pay Bands/ Scales	Corresponding Grade Pay	Pension=50% of sum of min. of PB+GP/scales	Family pension = 30% of sum of min. of PB +GP/scales
		Grade	Scale					
9	1350-30-1440-40-4800-50-2200 1400-40-1800-1800-50-2300	S-8	4500-125-7000	PB-1	5200-20200	2800	4000	3500
10	1400-40-1600-50-2300-60-2600 1600-50-2300-60-2660	S-9	5000-150-8000	PB-2	9300-34800	4300	6750	4050

11. The above table clearly indicates that the pay scale of Rs.1400-2300/- (1.1.1986) was revised to 4500-7000 (1.1.1996) and subsequently to PB-1, 5200-20200+GP 2800(1.1.2006). There were other pay scales viz. 1400-40-1600-50-2300-60-2600 and 1600-50-2300-60-2660 which were revised to 5000-8000 (1.1.1996) and subsequently to PB-2 9300-34800 + GP 4200 (1.1.2006). This supports the respondents’ contention that there were some specific categories of Sr. Technicians who had either a slightly longer pay scale or a slightly higher pay scale which were revised to 5000-8000 and subsequently to Grade Pay of 4200. The applicant’s husband being in the pay scale of 1400-2300, her family pension was correctly fixed on the basis of revised scale of 4500-7000 (1.1.1996) and subsequently on the basis of 5200-20200 + GP 2800 (1.1.2006).

12. As per the above table, the family pension should not be less than Rs.3500/-. Admittedly the applicant is not getting

less pension than this. This was also confirmed by a memo submitted by the learned counsel for the applicant Shri M.A. Khan on 11.01.2018 as per the instructions of the applicant, in which it has been stated that she is getting pension at the basic of Rs.3500/- and total amount is Rs.10,000/-. As per the RTI information (Annexure A/4 dated 21.11.2017) her enhanced rate of pension as per 6th CPC comes to Rs.4908/-. It is not clear whether this figure refers to the basic pension or the total pension including the Dearness Pension. In any case, the subject matter of dispute is correctness of the pension fixation on the basis of Grade Pay of Rs.2800/- which has been discussed in detail in the preceding paragraphs. The memo filed on 11.01.2018 as aforesaid does not raise a new point of adjudication. The memo is taken on record.

13. *Both the parties referred to RBE No.205/2009 dated 25.11.2009. Its operative part has been quoted in para 6 above. This does not assist the case of the applicant. It only refers to those Sr. Technicians who were in the 5th CPC scale of Rs.5000-8000/-. The applicant's husband being in the scale of Rs.1400-2300/- her family pension was revised corresponding to its revised 5th CPC scale of Rs.4500-7000/-.*

14. *In conclusion, there is no merit in the O.A. Hence, dismissed. No order as to costs."*

5. Learned counsel for the respondents submits that pay revision recommendation quoted at page 40 of the writ petition and also in the impugned judgment in the form of a table in para 10 clearly shows that the revised scale of pay was Rs.4500-7000/- under 5th Pay revision to the pre-revised scale of Rs.1400-2300/-. The corresponding revised scale under 6th pay revision is Rs.5200-20200/- with grade pay of Rs.2800/- and not what is claimed by the petitioner. The petitioner did not raise any grievance upon fixation of her family pension under the revised pay scale of Rs.4500-7000/- w.e.f. 01.01.1996 and has approached the learned Tribunal in the year 2017 with the grievance relating to her family pension. Learned tribunal has, upon consideration of the rival stand of the parties and the materials on record, rightly held that she is not entitled to the enhanced pay scale of Rs.9300-34800/- plus grade pay of Rs.4200/- as claimed.

6. We have considered the submissions of the learned counsel for the parties in the light of the material facts and documents borne out from the record. At the outset, it needs to be observed that the pay scale of Rs.1400-2300/- for Master Craftsman, which post the petitioner's husband held was revised to Rs. 4500-7000/- with effect from 01.01.1996 under 5th Pay Revision which remained unchallenged till filing of the original application in 2017. The consequent revised pay scale thereof under 6th P.R.C is Rs.5200-20200/- with grade pay of Rs.2800/- under which the petitioner was

drawing her family pension under 6th P.R.C. Though the petitioner sought to rely upon Annexure-3 as clarification based upon the recommendation of the Fast Track Committee of the Government to justify the scale of Rs.5000-8000/- and the revised scale of Rs.9300-34800/- with Grade pay of Rs.4200/- and also the information obtained under R.T.I. vide Annexure-7 dated 13th February, 2018, but it appears that the petitioner was not able to substantiate her claim that the post of Master Craftsman on which her husband was employed at the time of death was equivalent to the post of Master Craftsman (Sr. Technician). On the other hand, Annexure-7 refers to the corresponding pay scales from the 4th P.R.C. till 7th P.R.C. with respect to Master Craftsman (Sr. Technician) and the corresponding revised scale of pay under 5th P.R.C has been shown as Rs.5000-8000/- which stands revised to the scale of Rs.9300-34800/- with grade pay of Rs.4200/- under 6th P.R.C. Petitioner's family pension was revised in the scale of Rs.4500-7000/- which was the corresponding scale of the pre revised scale of Rs.1400-2300/- under 4th P.R.C. Having availed of the said scale and the consequent family pension based thereupon all throughout the 5th P.R.C., she has questioned the same in the year 2017 when the 7th pay revision has already been brought into effect. Her claim is not only stale but the recommendation of the 6th Central Pay Revision Commission vide Office Memorandum dated 14th October, 2008 and the chart enclosed thereto at Page 40, also quoted in the impugned order, shows that the scale of Rs.4500 -7000/- was the corresponding revised scale to the pre revised scale of Rs.1400-2300/-.

7. As such we are of the considered opinion that the learned tribunal has not committed any error in law or in facts warranting interference in the impugned findings. Accordingly, the instant writ application being devoid of merit, is dismissed.

(Aparesh Kumar Singh, J.)

(Deepak Roshan, J.)