

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4557/2019

Bharati Wd/o Chandrakumar Ramteke
(Maiden Name Sunita D/o Ukandya Madame),
Aged about 54 years, Occ: Nil,
R/o C/o Vijay Madame, Behind Thawre High School,
Kukde Layout, Nagpur – 440027.

PETITIONER

.....VERSUS.....

1. Union of India, Through General Manager,
Central Railway, Mumbai CSTM - 400001.
2. Divisional Railway Manager, Nagpur Division,
Central Railway, Nagpur – 440001.
3. Senior Divisional Finance Manager,
D.R.M.'s Office, Nagpur Division,
Central Railway, Nagpur – 440001.

RESPONDENTS

Mrs. R.A. Deshpande, counsel for the petitioner.
Shri S.V. Purohit, counsel for the respondents.

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, JJ.

DATE : 28TH FEBRUARY, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in this writ petition is to the order dated 20.11.2018 passed by the Central Administrative Tribunal, Nagpur in Original Application No.211 of 2018. By that order, the claim of the petitioner for grant of family pension has been rejected.

3. It is not necessary to refer to the facts in detail since we find that before the Tribunal the respondents had filed their reply to the Original Application on 24.10.2018. The record indicates that on the same day the proceedings were closed for passing the judgment and the impugned order was delivered on 20.11.2018. Perusal of the reply filed by the respondents before the Tribunal and especially paragraph 10 thereof indicates that the aspects stated therein have been considered by the Tribunal while denying the claim of the petitioner for grant of family pension. To counter the documents filed alongwith the said reply, the petitioner seeks to rely upon fresh documents that are placed before this Court alongwith the writ petition. In this context, in Ground No.(I) of the writ petition it has been specifically stated that on 24.10.2018 the respondents filed an application for taking their reply on record before the Tribunal. The Tribunal without granting an opportunity to the petitioner to go through the said reply and counter the points raised in the reply or file rejoinder closed the proceedings for passing the final order. In paragraph 4 of the reply filed by the respondents herein there is a simple denial to the aforesaid averments. We however find that the impugned order of the Tribunal is passed on the points raised in paragraph 10 of the reply filed by the respondents before the Tribunal. The said points would require adjudication by the Tribunal after considering the reply of the petitioner to those points. Since the issue

pertains to grant of family pension and the petitioner seeks to rely upon various other documents to counter the stand taken by the respondents in their reply before the Tribunal, it is found necessary to permit the petitioner to counter that material before the Tribunal itself. This would facilitate the consideration of relevant documents while considering the prayer for grant of family pension.

4. In view of aforesaid discussion and without examining the correctness of the reasons assigned by the Tribunal in the impugned order, we proceed to pass the following order:-

- (I) The order dated 20.11.2018 passed by the Central Administrative Tribunal in O.A.211/00159/2018 is set aside.
- (II) The said proceedings are restored with the Central Administrative Tribunal, Mumbai Bench, Camp at Nagpur for fresh consideration.
- (III) The petitioner shall within a period of fifteen days from today file a rejoinder to the reply that was filed before the Tribunal on 24.10.2018. The copy of such rejoinder shall be served on the counsel for the respondents before the Tribunal.
- (IV) The Tribunal shall thereafter consider the proceedings on their own merits and decide the same in accordance with law. Since the prayer is for grant of family pension, the proceedings be decided expeditiously by the Central Administrative Tribunal.

(V) It is clarified that this Court has not examined the correctness of the reasons assigned by the Tribunal in the impugned order and all points are kept open for adjudication by the Tribunal.

5. Rule is made absolute in aforesaid terms with no order as to costs.

(SMT. M.S. JAWALKAR, J.)

(A.S. CHANDURKAR, J.)

APTE