

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-1641-2018

Date of Decision: 18.11.2022

Shashi Kanta

.....Petitioner(s)

Versus

General Manager, (P) Northern Railway, New Delhi and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Ms. Pooja Arora, Advocate,
for Mr. Manmeet Singh Rana, Advocate,
for the appellant.

Mr. Jaivir Singh, Advocate,
for Mr. Ashish Rawal, Advocate,
for respondent Nos.1 to 3.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order passed by the Central Administrative Tribunal, Chandigarh Bench dated 16.05.2017 (Annexure P-4) wherein, the claim of the petitioner for family pension has been declined. The reasoning given by the Tribunal was that her father had expired on 16.07.2000 and she having been married earlier on 02.03.1999, was not having any divorce decree from her husband Chaman Lal. The decree was only passed on 18.10.2014 (Annexure A-2) in a petition which was filed on 11.03.2014 i.e. 14 years after the death of her father. The claim as such that there was customary divorce taken and the daughter was residing with the father was rejected by perusing the judgment granting divorce wherein, there was no such mention that any divorce has been got as per the custom prevailing in the area. Therefore, in the absence of any such documentation

that there was any approval by the Panchayat as per the prevailing custom, the relief was declined. Reliance was placed upon the O.M. dated 18.09.2014 which provided eligibility of widowers/divorced daughters for grant of family pension. Accordingly, it was noticed that divorced daughters had been included though originally Rule 75(6) of the Railway Services (Pension) Rules, 1993 dealing with family pension to dependant sons or daughters did not provide the said benefit to be granted to the divorced daughters who were not included in the definition of family. Resultantly, it was noticed that there was no dependency as such upon the father and she was married and living separately at the time of the death of the father and thus was not eligible for family pension.

The claim as such is of having been deserted since 07.03.2000 after the marriage on 02.03.1999 but a specific case as such was of the customary divorce to show that the same had been granted before the death of the father on 16.07.2000 to bring it within the ambit of eligibility, as such. However, even in the pleadings, there is no mention of any such fact in the petition under Section 13 of the Hindu Marriage Act which was filed only on 11.03.2014, 14 years after the death. This fact was never mentioned and, therefore, the Tribunal has examined the issue in detail to take the view that the case would not fall within the provisions as such which only provide that the benefit is only to be granted to divorced daughter at the time of death.

It is also to be noticed that the petitioner was one of the original applicants in OA No. 475 of 2015 wherein, she had claimed the relief as such, which is also after 15 years of the death of the father. The original application had been disposed of on 29.05.2015 (Annexure A-3) directing the respondents to consider the claim of the applicant. Resultantly, the claim was

rejected on 07.10.2015 (Annexure A-4) noting that the mother had died on 22.12.1994 and the divorce had taken place after the death of the father and thus she was not dependent on her father at the time of the death. The appeal was rejected on 17.12.2015 (Annexure A-6), which was subject matter of consideration before the Tribunal.

Thus, in our considered opinion, the Tribunal has not erred in any manner while denying the relief as such as the alleged deed of divorce dated 10.04.2000 (Annexure P-3), which had been relied upon, had never been given any stamp of approval of any judicial Forum. Rather when the petition was filed under Section 13, the factum of the said divorce also had never been mentioned and, therefore, the Tribunal has rightly not taken the said fact of customary divorce being genuine and rejected the claim.

In view of the above, we do not find any reason as such to take a contrary view as the order of the Tribunal is well justified and reasoned. Accordingly, there is no merit in the present petition and the same stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

18.11.2022
shivani

(MANISHA BATRA)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No