



W.P.No.12494 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

THE HONOURABLE R.JUSTICE P.B.BALAJI

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Mumtaz Begam

... Petitioner

Vs.

1. Union of India,
Rep. by the General Manager,
Southern Railway, Park Town,
Chennai 600 003.
 2. The Divisional Railway Manager,
Madurai Division, Southern Railway,
Madurai - 16.02.1961
 3. The Senior Divisional Finance Manager,
Madurai Division, Southern Railway,
Madurai-16.
 4. The Divisional Personnel Officer,
Madurai Division, Southern Railway,
Madurai - 16.02.1961
 5. The Registrar, The Central Administrative Tribunal,
Madras Bench, Chennai.
- ... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order made in O.A.No.1239/2013 dated 12.12.2014 to quash the same and consequently, direct the respondents 1 to 4 to restore the family pension to the petitioner.

For Petitioner : Mr.N.R.Jasmine padma

For Respondents : Mr.P.T.Ramkumar
for Respondents 1 to 4

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Writ petition has been filed by the petitioner to set aside the order passed by the Tribunal in O.A.No.1239/2013 dated 12.12.2014, wherein, the claim of the petitioner to restore the family pension was rejected.

2. The brief case of the petitioner is as follows.

The petitioner is a widow of late M.Yusuf Khan, who was working as a Khalasi in the Mechanical Department of Madurai Division, Southern Railway and during their wedlock, a son namely Y.Anwar Khan born to them. Subsequently, her husband died in



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harness on 09.08.1973 and after his demise, she had received the family pension. In such circumstances, the petitioner re-married one Kamal Batcha on 11.11.1981 and hence, she requested the respondents to stop the family pension to her and to grant family pension to her son Y.Anwar Khan and the same was sanctioned till he attained the age of twenty five years.

2.1. The petitioner's second husband also died on 16.01.2004. Thereafter, the petitioner requested the respondents to restore the family pension, arising out of her wedlock with Yusuf Khan., however it was not considered by them. Hence, the petitioner had filed O.A.No.1239/2013 before Tribunal for restoration of the family pension, But the Tribunal has dismissed the application, vide order dated 12.12.2014. Against which the present writ petition has been filed.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents. Also, we have perused the materials on record.



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4. It is an admitted fact that, after the death of petitioner's first husband viz., M.Yusuf Khan, the petitioner was given appointment in the Railway Department on compassionate ground, and also she was granted family pension. Thereafter, she got re-married with one Kamal Bhasha and hence, her family pension was stopped and it was granted to her son Y.Anwar Khan, born to her first husband, till he attained the age of 25 years. After her re-marriage, the petitioner was continued in her service and she retired from service on 31.12.2011 as Senior Parcel Porter on attaining the age of superannuation.

5. It is the contention of the learned counsel for the petitioner that the petitioner is entitled for restoration of family pension, consequent to the death of her second husband Kamal Batcha, since the family pension granted to her son was stopped on the date, he attained the age of 25 years.

6. The Tribunal has considered the original application filed by the petitioner and after hearing both sides and upon perusing the documents and relevant rules, has dismissed the application holding



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that the death of Kamal Batcha, i.e. the second husband, cannot give a fresh right to the petitioner to claim family pension, since the right of claiming family pension was ceased on the date of her re-marriage. Further, the Tribunal has relied upon the Railway Board's letter No.2011/F(E)III/1(1)9 dated 23.09.2013, wherein, at Clause 6(1), it is clearly stated that the family pension is payable in the case of a widow or widower up to the date of death or re-marriage, which ever is earlier. Admittedly, the family pension was granted to the petitioner up to the date of her re-marriage and thereafter, it was granted to his son, till he had attained the age of 25 years. However, the learned counsel for the petitioner has made an attempt to convince this Court that the petitioner is entitled for restoration of pension, even after the death of her second husband, since, the family pension granted to his son was stopped after he attained the age of 25 years. But we are not accepted the contentions of the learned counsel for the petitioner, even, on humanitarian ground also. If such claim is entertained, it will open the flood gates of litigations, who are ineligible for the above said scheme and rules.



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7. Further, we have carefully considered the approach of the petitioner in filing the application before the Tribunal. It is the contention of the petitioner that her second respondent namely Kamal Batcha died on 16.01.2004. However, the original application was filed only in the year 2013 i.e. after a lapse of 9 years. Therefore, considering at any angle, we are of the view that there is no merits in the writ petition and hence, the order passed by the Tribunal does not warrant any interference by this Court.

8. Accordingly, this writ petition is dismissed. No costs.

(D.K.K., J.) (P.B.B., J.)

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Index:Yes/No
Internet:Yes/No
mst



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D. KRISHNAKUMAR, J.
AND
P.B.BALAJI, J.
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