



W.P.No.8950 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.09.2023

Coram

The Hon'ble Mr.Justice **D.Krishnakumar**
and
The Hon'ble Mr.Justice **P.B.Balaji**

W.P.No.8950 of 2019

S.Kalaiarasi

...Petitioner

Vs.

1. Union of India rep. by
The General Manager,
Southern Railway, Park Town,
Chennai – 600 003.
2. The Senior Divisional Finance Manager,
Tiruchirappalli Division,
Southern Railway, Trichy.
3. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a writ of certiorarified mandamus, to call for records
relating to the order of the third respondent made in



W.P.No.8950 of 2019

O.A.No.310/00796/2018, dated 29.06.2018 and to quash the same and consequently, to direct the respondents 1 and 2 to restore family pension to the petitioner with admissible interest thereon.

For Petitioner : Mr.L.Chandrakumar
For Respondents 1 and 2 : Mr.P.T.Ramkumar
Respondent-3 : Tribunal

ORDER

This Writ Petition is filed seeking to quash the order passed by the Central Administrative Tribunal (for short, Tribunal) viz., third respondent, dated 29.06.2018, in O.A.No.310/00796/2018, whereby, the petitioner's prayer for restoration of family pension to her was dismissed.

2. It is the case of the petitioner that her father was an railway employee (Senior Gangman) and he died in harness on 06.03.1993. Therefore, the petitioner's mother, being his legal heir, was receiving the family pension. On 23.03.1998, the petitioner's mother also died. Thereafter, the family pension, which was earlier extended to the spouse



W.P.No.8950 of 2019

(petitioner's mother) was extended to the petitioner w.e.f. 04.10.2008.

But, all of the sudden, the second respondent, Senior Divisional Finance Manager, by order, dated 20.03.2018, ordered for stoppage of family pension by stating that the petitioner is not eligible for the benefit of family pension, as, she became widow only after her parents pre-deceased her. Challenging the said order, dated 20.03.2018, the petitioner filed an Original Application before the Tribunal and the Tribunal also dismissed the Original Application. Against which, the present Writ Petition is filed.

3. Mr.L.Chandrakumar, learned counsel appearing for the petitioner would submit that as per the definition of the word 'Family' under Rule 70(5) of the Railway Pension Rules, 'Family' includes, i) wife, ii) husband, iii) sons, iv) unmarried daughters and v) widowed daughters and hence, the findings of the Tribunal in holding that the applicant (petitioner), who falls under the category of widowed daughter, could not become a member of a non-existent family on 03.10.2008 is incorrect. Further, the learned counsel referred to Railway Board's letter dated 16.03.2005, which states that the divorced/widowed daughters were



W.P.No.8950 of 2019

privileged to draw family pension even after crossing the age of 25 years and therefore, the petitioner is entitled to receive family pension as she is a widowed daughter of a deceased railway employee. Therefore, the learned counsel submitted all these aspects were not considered by the Tribunal in a proper prospective and hence, the impugned order is unsustainable in law and liable to be quashed.

4. Mr.P.T.Ramkumar, the learned counsel for the respondents 1 and 2 would submit that, the petitioner is entitled to receive the family pension, only in the event she became a widowed daughter either at the time of death of father i.e. on 06.03.1993 or mother on 23.03.1998, and since she become widowed only on 03.10.2008, i.e after her parents pre-deceased her, she is not entitled to receive the family pension, and hence, the second respondent has rightly ordered for stoppage of family pension, which was also confirmed by the Tribunal by rightly dismissing the Original Application and the same warrants no interference in this Writ Petition.



W.P.No.8950 of 2019

WEB COPY 5. We have heard the learned counsel for appearing for the petitioner and the learned counsel for respondents 1 and 2.

6. We are in complete agreement with the contention of the learned counsel for the respondents 1 and 2. Admittedly, the petitioner became widowed daughter not at the time of death of father i.e. on 06.03.1993 or mother i.e. on 23.03.1998, but only after they pre-deceased her, i.e. on 03.10.2008. Though the petitioner has referred to sub-class v of Rule 70 (5) of the Pension Rules, which defines that word 'family' includes widowed daughters and the petitioner also took reliance on Railway Board's letter dated 16.03.2005, which states that the divorced/widowed daughters were privileged to draw family pension even after crossing the age of 25 years, the aforesaid Rule is applicable only to the daughter, who become widowed/divorced at the time of death of the railway employee, and in the present case, as already noticed above, the petitioner's father and mother died even before the petitioner became widow on 03.10.2008. Therefore, as rightly held by the Tribunal,



W.P.No.8950 of 2019

she could not become a member of a non-existent family on 03.10.2008 following her widowhood.

7. In the result, we dismiss this Writ Petition as being devoid of merits. No costs.

**D.K.K.J., P.B.B.J.,
01.09.2023**

sd

Index : yes/no

Neutral Citation : yes/no

To

1. Union of India rep. by
The General Manager,
Southern Railway, Park Town,
Chennai – 600 003.
2. The Senior Divisional Finance Manager,
Tiruchirappalli Division,
Southern Railway, Trichy.
3. The Registrar,
The Central Administrative Tribunal,
Madras Bench, Chennai.

6/7



WEB COPY



W.P.No.8950 of 2019

**D.Krishnakumar,J.
&
P.B.Balaji,J.,**

sd

W.P.No.8950 of 2019

01.09.2023