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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 3357/2025 and CM APPL. 15857/2025

UNION OF INDIA & ORS. .....Petitioners

Through: Mr. Shashank Dixit, CGSC with Mr. Kunal Raj, Adv.
Mr. Devvrat Yadav, SPC with Mr. Kartik Sharma, GP

versus

SHRIMATI MOHARSHRI .....Respondent

Through: Mr. Arun Bhardwaj, Sr. Adv. with Ms. Muskan Jain, Mr. Pranava Rastogi, Ms. Khushi Sood and Ms. Ashu Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **12.05.2026**

C. HARI SHANKAR, J.

1. This is an extremely unfortunate case.

2. OA 10/1999, instituted by the petitioner for being disbursed the retiral benefits due to her husband, was allowed by the Central Administrative Tribunal[1] on 2 August 2001. For reasons unknown and which we do not wish to guess, the Railways, as the respondent before the Tribunal and the petitioner in the present writ petition, chose, with abject impunity, not to comply with the order of the

Tribunal. After fighting, for her due entitlement, for years, the respondent departed for a better world. The legal heirs of the respondent are now having to continue to battle for the same relief.

3. To say the least, we are shocked.

4. Ajab Singh, an employee of the Northern Railways, expired on 4 January 1988. The respondent Moharshri was the widow of Ajab Singh. During the course of proceedings in this Court, she, too, has expired, and this writ petition is, therefore, being prosecuted by her legal heirs.

5. Moharshri moved the Tribunal by way of OA 10/1999, seeking release of family pension, as well as arrears thereof, to her, consequent on the death of Ajab Singh. By a judgment dated 2 August 2001, the Tribunal allowed OA 10/1999 in the following terms:

> "11. In the circumstances afore-said, reading together through a harmonious construction of the interpretation given the Hon'ble Supreme Court in the cases of ***State of Haryana Vs. Piara Singh***[2] **(Supra),** ***Malati Kar Vs. UOI***[3] **(Supra)** and **Ram Kumar's** case as also bearing in mind the provisions of rule 101 of the Railway Pension, Rules, we are inclined to hold that the deceased husband of the applicant was entitled to be regularized in service at least from the date of his death, and as such the present applicant is also entitled to the family pension as per rules."
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> 12. So following the same principle I hold that the applicant is entitled to be regularized from the date of his death and his family cannot be allowed to suffer to the respondents are directed to grant family pension to the applicant as per rules, instructions and judicial pronouncements on the subjects. This may be done within a period of 3 months from the date of receipt of copy of this order.

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[1] "the Tribunal" hereinafter
[2] (1992) 4 SCC 118
[3] (1992) 21 ATC 583

No costs."

6. There was, therefore, a clear and categorical direction, as far back as on 2 August 2001, a quarter of a century ago, for disbursal of family pension to Smt. Moharshri. It is shocking that, despite the passage of 25 years since then, not only was family pension in terms of the order passed by the Tribunal not paid to Smt. Moharshri, but after her having expired, the Railways are continuing to contest this petition against the legal heirs of Smt. Moharshri.

7. Significantly, to a query from the Court as to whether there is any justification for not complying with the order dated 2 August 2001, Mr. Dixit, learned CGSC for the petitioner, fairly submits that he has no answer.

8. Continuing with the recital of facts, we may note that the Railways sought a review of the judgment dated 2 August 2001 from the Tribunal by way of RA 352/2001, which was also dismissed by the Tribunal on 19 November 2001. The matter was carried further to this Court by way of WP (C) 1110/2002. Initially, by order dated 14 February 2002, this Court issued rule in the writ petition, notice in the stay application and stayed the operation of the order of the Tribunal. The writ petition itself was taken up by this Court 11 years thereafter on 7 August 2013. As no one appeared on behalf of the Railways and process fee had also not been filed in the writ petition consequent to issuance of notice, the petition was dismissed for non-prosecution.

9. The Railways moved CM 1652-53/2014 for restoration of the writ petition. By order dated 4 February 2014, notice was issued in the restoration application, subject to deposit of costs of ₹ 50,000/-.

10. Neither were the costs deposited, nor was there any appearance on behalf of the Railways, as a result of which, on 22 August 2014, the application for restoration of the writ petition was also dismissed.

11. Despite this, the Railways, in an attitude which smacks of total apathy, still did not release the family pension as directed by the Tribunal as far back as on 2001.

12. The respondent, therefore, moved MA 402/2023 in OA 10/1999 seeking release of arrears of family pension to her as directed by the Tribunal on 2 August 2001 in the said OA.

13. Before the Tribunal, the Railways sought to contend that the MA was "hopelessly barred by time" and, therefore, was liable to be dismissed. It was also sought to be contended that the application was not maintainable and that the remedy with the respondent was to move the Tribunal under Section 27 of the Administrative Tribunals Act, 1985[4], within a period of one year from the passing of the order of which enforcement was sought. That period having expired much earlier in point of time, the Railways exhorted the Tribunal to dismiss the MA.

14. The Tribunal, however, did not entertain the said request and

[4] "the AT Act" hereinafter

proceeded to allow the MA, reasoning thus :

> "10 The issue before us is, whether the limitation would come in the way of releasing of retiral dues to the legal heir of the wife of the deceased applicant pursuant to the Order dated 02.08.2001 in OA No.10/1999. The Tribunal, had directed the respondents to consider the deceased employee regularised from the date of his death and that the applicant therein would be entitled to receive the family pension as per the rules and instructions.
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> 11 In the facts before us, the O.A. was decided by order dated 02.08.2001. The Review Application filed by the respondents was dismissed on 09.11.2001. Thereafter, the Order dated 02.08.2001 was assailed by the respondents before the Hon'ble High Court which attained finality in the year 2014. Between the years 2014 to 2016, the respondents were obliged to extend the benefit of the order dated 02.08.2001 i.e., retiral dues to the wife of the deceased employee. Evidently, the respondents have not done the same. In the year 2016 itself, the respondents acted in a callous manner. Thus, the wife of deceased employee was deprived of the benefits of retiral dues and she died in the year 2016 and now her legal heir has filed the instant MA. We are of the considered opinion that the respondents cannot be allowed to take the benefit of their own wrong.
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> 12 The Hon'ble Supreme Court in ***Dr. Hira Lal Vs. State of Bihar and Ors***[5]., Civil Appeal No.1677-78 of 2020, has held that pension is a right and not a bounty. It is a constitutional right for which an employee is entitled on his superannuation. The instant MA does not seek execution or allege willful disobedience of the order dated 02.08.2001. Therefore, the objection of limitation cannot be allowed to sustain.
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> 13 The applicant in the OA has since passed away in the year 2016, the MA has been filed for appropriate directions. The dues of the retirement as directed to be released in favour of the applicant therein, are withheld by the respondents without any explanation, which were to be released by them after the Order of the Tribunal attained finality in the year 2014 itself. The applicant in OA expired in the year 2016, yet the respondents chose not to comply with the order. It is not in dispute that the husband of the applicant in the OA was an employee of the respondents and the directions since have attained finality, she was entitled to receive pension.
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> 14 We cannot loose sight of the fact that the husband of the

[5] **(2020) 4 SCC 346**

applicant was Gangman under Permanent Way Inspector Tundla, Northern Railway, and being under the lower rung of the society, wife of the applicant would possibly not be aware of the decision in the Writ Petition. The applicant is stated to be legal heir of the applicant in the OA and this fact has not been disputed by the respondents.

15 It is a well settled law that pension is equivalent to right to property, which in the present facts is in custody of the respondents and, therefore, the legal heir is entitled for release of the same. In view of the law laid down by the Hon'ble Apex Court in ***Dr. Hira Lal*** (supra), the right of the misc. Applicant to receive pension is equivalent to right to property under Article 31(1) and the respondents have no power to withhold the same. Similarly, the said claim is also property under Article 19(1)(f) and it is not saved by Sub-article (5) of Article 19. Therefore, it follows that the order denying the misc. applicant right to receive pension affects the fundamental right of the deceased employee under Article 19(1)(f) and 31(1) of the Constitution. Accordingly, the pension of the deceased employee needs to be devolved to his legal heir.

16 In view of the above, the MA is allowed. The respondents are directed to release the amount of family pension from 04.01.1988 to 15.10.2016 along with arrears of family pension to the legal heir of the deceased employee, as per rules on the subject. Since the legal heir of the applicant in OA and deceased employee did not approach the Tribunal for the last eight years, to balance the equity, they are not entitled to any interest on the retiral dues. The said exercise shall be completed within a period of six weeks from the date of receipt of a certified copy of this order.

There shall be no order as to costs."

15. The Railways have now petitioned this Court against the aforesaid decision of the Tribunal.

16. We have heard Mr. Shashank Dixit, learned CGSC for the petitioner and Mr. Arun Bhardwaj, learned Senior Counsel for the respondent, at some length.

17. Mr. Dixit submits that the Tribunal erred in entertaining the

MA. He submits that the remedy with a litigant, who is aggrieved by non-implementation of an order passed by the Tribunal, as per the judgment of the Supreme Court in ***Hukum Raj Khinvsara v. UOI***[6], was by way of an Execution Petition under Section 27[7] of the AT Act, which had to be preferred within a period of one year of the passing of the judgment of which execution was sought.

18. He, therefore, submits that the Tribunal ought not to have entertained the application at such a belated stage.

19. Mr. Dixit also submits that Rule 24[8] of the CAT Procedure Rules is akin to Section 151[9] of the CPC and that it is a settled position that where adequate remedies exist elsewhere in the statute, Section 151 of the CPC could not be invoked. *Mutatis Mutandis*, he submits that where remedy by way of an execution petition under Section 27 of the AT was available, Rule 24 of the CAT Procedure Rules would not enure to the benefit of the litigant.

20. Having heard learned counsel for the parties, we entirely agree with the view taken by the Tribunal.

21. Mr. Dixit's reliance on Section 151 CPC is, to our mind,

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[6] **(1997) 4 SCC 284**

[7] **27. Execution of orders of a Tribunal**. – Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order shall be executed in the same manner in which any final order of the nature referred to in clause (*a*) of sub-section (2) of Section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

[8] **24. Orders and directions in certain cases**. – The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

[9] **151. Saving of inherent powers of Court**. – Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to

misplaced. There is an obvious and glaring distinction between Section 151 of the CPC and Section 27 of the AT Act. Section 151 of the CPC has overarching powers as it starts by stating that nothing in the code would affect the inherent power of the Court to pass orders for the ends of justice and to prevent abuse of the process of the Court. Even so, it is true that Section 151 of the CPC is not available where adequate remedies under other provisions exist.

22. *In the present case, however, Section 27 of the AT Act has been made subject to other provisions of the AT Act and the provisions of the CAT Procedure Rules*. As such, unlike the position which obtained in the case of Section 151, the situation in the case of Section 27 of the AT Act vis-à-vis Rule 24 of the CAT Procedure Rules would be the exact reverse. As Section 27 of the AT Act has been made subject to the Rules, if relief is available in any other provisions of the Rules, it would be that relief that would have to be availed, and not Section 27 of the AT Act.

23. We have only, therefore, to see where the impugned order could sustain in terms of Rule 24 of the Rules. The answer is obvious. Rule 24 of the Rules empowers the Tribunal to pass any order or directions as may be necessary or expedient to give effect to its order or prevent abuse of its process or secure the ends of justice. Directions having been passed as far back as in 2001 to the Railways to disburse arrears of family pension to Moharshri, no fault can be found with the Tribunal in ensuring, at least at this late date, that the order is

prevent abuse of the process of the Court.

complied with. The impugned order clearly falls within the scope of the power of the Tribunal under rule 24 of the CAT Procedure Rules to pass orders to give effect to its earlier orders as well as secure the ends of justice.

24. We, in fact, have our serious misgivings as to whether the Railways, having flouted with abject impunity, the direction of the Tribunal issued as far back as in 2001, which attained finality even before this Court in 2014, should at all be entitled to an audience before this Court under Article 226 of the Constitution of India. The exercise of jurisdiction under Article 226 is fundamentally discretionary in nature. Article 226 is not open to invocation by a party who does no equity or acts unfairly. The manner in which the Railways have proceeded in this matter, especially keeping in mind the fact that the recipient of the Railways' treatment was a widow who herself perished during the pendency of these proceedings, to our mind, does not even permit the Railways to an audience before this Court.

25. We express our serious displeasure at the manner in which the Railways have acted in this matter. We may have been inclined to pass orders to identify the officers concerned responsible for not implementing the order of the Tribunal. However, given the lapse of time, those officers would possibly be no longer holding the post which they were holding at that point of time, or may have even superannuated in the meanwhile.

26. The apathy with which the Railways have proceeded in this case is clear from the fact that they never even cared to deposit the costs of ₹ 50,000 which were imposed by this Court when they applied for restoration of the writ petition. The attempt, therefore, appears to have been, at every stage, to ensure that complete injustice resulted to the respondent, who was constrained, in the circumstances, to fight for her due entitlement till her last breath, without success.

27. In these circumstances, we are constrained to dismiss this writ petition.

28. The benefits available to the respondents pursuant to the orders of the Tribunal would be released within a period of six weeks from today, failing which the amount shall carry interest at the rate of 9% per annum till actual payment.

29. The Railways has displayed at every stage, complete apathy towards the respondent. It is a matter of regret that the petitioner shed her mortal coil without seeing the benefits which were due to her in terms of the order dated 2 August 2001 of the Tribunal. The least we can do, in such circumstances, is to compensate her successors with costs, to be paid, needless to say, by the Railways.

30. We, therefore, burden the Railways with costs, quantified at ₹ 1,00,000/-, to be paid to the respondents within the aforesaid period of six weeks.

31. The writ petition is dismissed, in the aforesaid terms.

32. Let an affidavit of compliance of the directions passed by us today be positively placed on record by the Railways after six weeks.

33. List for reporting compliance on 10 July 2026.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

MAY 12, 2026/*yg*