

CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD

Order Sheet

Item no.: 10
O.A./498/2020 (AHMEDABAD)
[FAMILY PENSION]
With
Court No.: 1

No of Adjournment: 18

Order Dated: 07/08/2024

**JASWANTIBEN
Vs
M/O RAILWAYS**

For Applicant(s) Advocate : K L KALWANI

For Respondent(s) Advocate : R R PATEL

Order of The Tribunal

Counsel for the parties present.

Counsel for the applicant seeks permission to withdraw the M.A.118/2023 by which the applicant intends to carry out certain amendment. She submitted that she may be granted liberty to ventilate her grievance which may arise subsequently after filing this Original Application before the authority.

Heard counsel both the parties.

Without entering into the merits, this Tribunal accepts the request of counsel for the applicant to withdraw the M.A.118/2023.

In view of the aforesaid, M.A.118/2023 is dismissed as withdrawn.

O.A.498/2020 is taken up for final hearing.

Counsel for the applicant submits that father of the applicant retired from Railway Service in the year 1976 and he expired on 20.11.1987 thereafter the mother of the applicant being widow of the Railway employee received the benefit of the family pension. In the meantime, the applicant got divorce by way of customary divorce deed

in the year 1991 and since then she used to stay along with her mother and brother i.e. at her maternal parents house and continued to be dependent on her mother. Subsequently, the said family pensioner i.e. mother of the applicant expired on 02.11.2000. Thereafter, the applicant being divorcee daughter submitted her claim for grant of benefit of family pension. The respondents in compliance of the order passed in M.A.301/2019 in O.A.667/2016 the case of the applicant has not been acceded to on the ground that as per law and land decree divorce from the Competent Civil Court/Family Court having jurisdiction is required. Divorce taken as per local custom is also required to be proved by court of law otherwise the same is not legally acceptable. Since the applicant had not obtained decree of divorce from the court of law during the livelihood of her father/mother, her claim has not been accepted. Being aggrieved the applicant has filed the present Original Application.

Counsel for the applicant relied upon the judgment passed by Hon'ble High Court of Gujarat in SCA No. 18168/2021 in case of Samirabanu vs. Union of India decided on 27.04.2023 as well as on order passed by this Tribunal in O.A.72/2019 which was decided on 21.08.2020 and other identical orders passed by this Tribunal in similar cases.

As against counsel for the respondents oppose the claim of the applicant and in support of it placed reliance upon the order passed by this Tribunal in case of Sushilaben vs. Union of India & Ors in O.A.39/2022 decided on 16.12.2022 and other identical orders passed by this Tribunal in similar cases and held that in absence of the divorce decree passed by the Competent Civil Court the claim of the divorce daughter based only on customary divorce deed is not acceptable to meet the requirement for grant of benefit of family pension to the divorce daughter of a pensioner under Railway.

At this stage, counsel for the applicant submits that the order relied upon by the counsel for the respondents i.e. in O.A.39/2022 is as such under subjudice in Hon'ble High Court of Ahmedabad in SCA No. 2370/2023 and said petition has been ordered to be listed for final hearing on 28.08.2024. Therefore, the same cannot be relied upon.

Further, both the counsel submits that short time may be granted to assist this Tribunal.

Heard counsel for both the parties at length.

Considering the submissions as noted herein above, list the matter for further order/final hearing on 04.09.2024. In the meantime, counsel for the parties are directed

to place on record details of the judgment wherein the claim of divorcee daughter has been accepted based on the customary divorce for the purpose of grant of family pension.

Jayesh V Bhairavia
Member (J)

/pv/