

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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O.A. NO. 1876/2002

New Delhi, this the 4th day of February, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (J)

Smt. Karorpati,  
W/o Late Shri G.P. Dubey,  
R/o A - 16/427 Lodhi Colony,  
New Delhi

..... Applicant

(By Advocate : Shri Gajender Giri)

Versus

1. Union of India,  
Through Secretary,  
Ministry of Civil Aviation,  
B-Wing, Rajiv Gandhi Bhawan,  
Safdarjung Airport, New Delhi

2. Secretary,  
Govt. of India,  
M/o Personnel Public Grievances  
and Pension (DOPT),  
Lok Nayak Bhawan,  
New Delhi

..... Respondents

(By Advocate : Shri M.M. Sudan)

O R D E R (Oral)

Applicant, the mother of the deceased Govt. servant, impugns respondents' order dated 10.07.2001 as well as letter dated 22.01.2002 whereby her request for payment of leave encashment and additional amount of Rs.30,000/- towards Deposit Linked Insurance Scheme under GPF has been turned down.

2. The applicant is the widow mother of late Shri Satya Prakash Dubey who was working as UDC, died on 09.05.2000. One Smt. Savitri Devi solemnised marriage with late Shri S.P. Dubey in June 1982. The family life of Shri Dubey was not harmonious and the matter went to the Court and a decree of judicial separation

was passed on 20.07.1999, but before the marriage could be annulled, Shri S.P. Dubey died on 09.05.2000.

3. As there was no dependant in the family of the deceased Govt. servant, he nominated his mother as the first nominee.

4. By an order dated 15.05.2001 passed in OA No.1831/2001 filed by the widow of the deceased Govt. servant, directions have been issued to the extent that payments of DCRG and CGEGIS will be made to the mother of the deceased, namely, Smt. Karorpati as she is the nominee. The payment of GPF will also be made to the mother as the deceased Govt. servant had got judicially separated his wife. In so far as leave encashment is concerned, DOP&T had been approached for clarification. On the basis of the clarification received, the payment of leave encashment in favour of the mother has been turned down. Regarding the claim of additional amount of Rs.30,000/- under Deposit Linked Insurance Scheme under rule 33 (B) of the GPF CS Rules is concerned, the same has been denied to the applicant on the ground that late Shri S.P. Dubey died prior to 30.5.2000 and thus payment of Rs.60,000/- is not applicable and accordingly a sum of Rs.30,000/- was sanctioned by the President vide order dated 10.07.2001, giving rise to the OA.

5. Shri Gajendra Giri, learned counsel for the applicant contended that while according leave encashment to the nominee, although there has been a

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judicial separation, yet the marital relationship has not ended and Smt. Savitri Devi who is legally married to the deceased to be treated as widow and accordingly leave encashment has been ordered to be paid to her.

6. Moreover, by referring to rule 33 (B) of CS GPF Rules *ibid*, it is contented that the rule has been amended and an additional amount of Rs.60,000/- has been made admissible only on the pre-condition that the minimum balance at the time during the preceding three years has to be satisfied and as the deceased employee had an amount of Rs.2,23,346/- in the GPF account, the pre-condition for payment of Rs.60,000/- has been fulfilled. Further, by referring to OM dated 18.4.2000 issued by the Ministry of Personnel, Public Grievances and Pensions, it is stated that family of those who died after 25.4.1998, but do not fulfil the conditions for grant of the benefit as per revised scheme. In the case of applicant, amended rule 33(B) should be applied and the benefit cannot be denied to the applicant.

7. Shri M.M. Sudan, learned counsel for respondents strongly rebutted the contentions and stated that though merely a judicial separation has taken place, but in absence of annulment of marriage, Smt. Savitri Devi is to be treated as the widow of the deceased employee and in view of the advice tendered by the DOP&T and Department of Legal Affairs on the basis of the decision of the Andhra Pradesh High Court in the case of M. Narasimha Reddy & Others vs. M. Boosamma (AIR 1976 AP 77), the claim of the applicant for leave

encashment under rule 33 (B) of CCS (Leave) Rules, 1972 cannot be entertained and the widow of the deceased is entitled for such payment which has been rightly denied to the applicant.

8. Insofar as the Deposit Linked Insurance Scheme is concerned, it is stated that as per the OM dated 18.4.2000 a clarification has been sought regarding those employees who died after 25.4.1998 but do not fulfil the conditions for grant of benefit for want of minimum balance required during the preceding three years. The subscribers who died on or before 30.5.2000 pre-revised scheme notified through Notification dated 25.4.1998 shall apply and as such enhanced amount of Rs.60,000/- is not payable to the applicant.

9. We have carefully considered the rival contentions of the parties and perused the material placed on record.

10. I do not find any infirmity in the opinion tendered by the Department of Personnel, Public Grievances and Pensions in consultation with the Departmental of Legal Affairs. In the light of the decision of the Andhra Pradesh High Court (supra), unless the marriage is annulled ~~mere~~<sup>by</sup> judicial separation would not change the status of widow. She remains a legally wedded wife and is entitled to leave salary under rule 39 (A) of the CCS (Leave) Rules as amended from time to time.

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11. However, insofar as Deposit Linked Insurance Scheme is concerned, the applicant fulfils the criteria laid down under the amended rules where an additional amount of Rs.30,000/- is to be paid. The deceased employee was holding a post in the scale of pay as envisaged under clause (a) and the Office Memorandum dated 18.4.2000 it is clarified that the payment to be made clearly envisages as follows:-

"3. The Department of Pension & Pensioners' Welfare has been in receipt of references seeking clarification regarding payment to be made under Deposit Linked Insurance Revised Scheme to the family of those Government employees who died after 25.4.98, but do not fulfill the conditions for grant of benefits as per revised Scheme. This is because there are many cases where the conditions of the minimum balance at any time during the preceding 3 years as per the existing rules would have been satisfied but the condition of minimum balance as per revised limits are not satisfied. In view of this, it has been decided that those employees should be covered under the pre-revised Scheme only.

4. Hence, the following note shall be appended below Rule 33-B amended vide Notification published in the Gazette of India on 25.4.1998 as SO.826:-

"NOTE : Pre-revised Scheme which existed before the Notification published in the Gazette of India on 25.4.1998 as SO.826 shall apply in cases of death of subscriber on or before the 30.5.2000 and to whom aforesaid amended Rule 33-B does not apply."

5. this issues with the concurrence of the Department of Expenditure vide UO No.214/E.V/2000 dated 13.3.2000."

12. If one has regard to the aforesaid provision, those Government employee who dies after 25.4.1998 but fulfil the conditions for grant of benefits as per revised scheme and having minimum balance at any time during the preceding three years as per existing rules cannot be denied the enhanced benefit. The deceased

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employee, who was undisputedly having the minimum balance during the last preceding three years cannot be denied because he died before 30.5.2000. To this extent I hold that the Note in the OM does not debar the cases of those Govt. servants who died on or before 30.5.2000, but the amended rule 33-B would apply to those who died after 25.4.1998 and fulfil the criteria of minimum balance at any time during the preceding three years as per the existing rules.

13. In the light of what is stated above and it is not disputed that the applicant has fulfilled the condition of minimum balance of preceding three years as per the existing rules, the denial of benefit of Rs.60,000/- to the applicant on account of Deposit Linked Insurance Scheme under rule 33-B of the Provident Fund Rules is not legally sustainable. Accordingly, OA is partly allowed. Impugned order dated 10.7.2001 is quashed and set aside. Respondents are directed to pay to the applicant Rs.60,000/-, less what the applicant has already received, within one month from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)  
MEMBER (J)

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