



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/01063/2018
Date of Order : 20-01-2020

HYDERABAD, this the 20th day of January, 2020.

THE HON'BLE MRS.NAINI JAYASEELAN : ADMINISTRATIVE MEMBER

P.N.Santhosh Kumar
S/o Late Shri P.VijayKumar,
Aged 36 years, Un-employee, Group-C,
R/o H.No.238/191, R.R.Nagar,
Opp : IDPL Colony, Begumpet,
Secunderabad-500 037.

(By Advocate : Mr.A.Nagendra Rao)

...Applicant

Vs.

1. The Union of India represented by
The Secretary, Ministry of Defence,
101-A, South Block, New Delhi.
2. The Commander Works Engineer,
Air Force, Bowenpally,
Secunderabad – 500 011.

(By Advocate : Mr.B.Rajesham)

....Respondents

(Oral Order per Hon'ble Mrs.Naini Jayaseelan, Administrative Member)

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Heard Mr. A. Nagender Rao, learned counsel for the applicant

and Mr. G. Rajesham, learned Standing Counsel for the Respondents.



2. The prayer of the applicant is to direct the Respondents herein (a) to pay the Family Pension to the applicant herein, the profound Hearing Disabled son of the Deceased Employee, Late Shri P. Vijay Kumar, Electrician (MCM), MES-180860, who expired on 08.12.2009 in harness while in service with all consequential benefits and attendant benefits; (b) to award costs; by declaring the action of the Respondents herein for not paying the Family Pension to the Applicant herein under Hearing Disability, as bad, illegal, arbitrary, discrimination, violative of Rules and Article 14, 16 and 21 of the Constitution of India, and pass any such other Order or further Orders as this Hon'ble Tribunal may deem fit, proper and necessary in the circumstances of the case.

3. Heard Mr. A. Nagendra Rao, learned counsel for the applicant and Mr. G. Rajesham, learned Standing Counsel for the Respondents.

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4. Rule-54(6) of the Family Pension Rules under the CCS (Pension)

Rules, 1964, reads as under :



(6) The period for which family pension is payable shall be as follows :-

- (i) In the case of a widow or widower, up to the date of death or
- (ii) In the case of a son, until he attains the age of twenty five years and
- (iii) In the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever is earlier.

Provided that if the son or daughter of a Government servant is suffering from any disorder or disability of mind including mentally retarded or a physically crippled or disabled so as to render him or her unable to earn a living even after attaining the age of twenty five years the family person shall be payable to such son or daughter for life subject to the following conditions, namely :-

- (i) If such son or daughter is the among two or more children of the Government servant, the family pension shall be initially payable to the minor children in the order set out in Clause (iii) of sub-rule (8) of this rule until the last minor child attains the age of twenty five years, and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind or who is physically crippled or disabled and shall be payable to him/her for life”.

The applicant had produced the Medical Certificate dated 20.02.2015

(Ex-A-III , page-12 to OA) of the Government ENT Hospital, Hyderabad.

Further the Respondents Department, vide letter dated 25.03.2019 has

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stated that the disability of the applicant does not qualify him for family



pension since only the physically crippled or mentally challenged who are unable to earn their livelihood are eligible and the applicant does not fall in this category.

5. Further, vide letter dated 24.08.2019, the Respondents Department requested the Medical Board, to 'give specific recommendation whether handicap is of such a nature so as to prevent him from earning his lively hood'. However a clear cut recommendation from the Medical Board on this issue is not on record.

6. In view of the above, the Respondents Department is directed to take action as per the Medical Board's recommendation which should be a categorical and clear recommendation whether the applicant's disability prevents him from earning his livelihood. The Respondents Department is directed to obtain the said recommendation within a period of two months from the date of receipt of the certified copy of this order.

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7. The Original Application is disposed of with the above directions.

No order as to costs.



vi.

(NAINI JAYASEELAN)
ADMINISTRATIVE MEMBER