

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SHRI R.K. AHOOJA, HON. MEMBER 'A'

O.A. NO.14/96

New Delhi, this the 15th day of December, 1996.

Smt. Vishan Devi
w/o lt. Ladha Ram
Aged about 50 years
D-50 East Uttam Nagar
New Delhi - 59.

... applicant

'By advocate Shri A.K. Trivedi'

Versus

1. Union of India, through its
Secretary, Ministry of Defence
South Block
NEW DELHI - 11
2. Garrison Engineer 'North'
Air Force Palam
Delhi Cantt. - 110 010.
3. Assistant Accounts Officer
Garrison Engineer 'North'
Air Force Palam
Delhi Cantt. - 110 010. ... respondents

'By Advocate Mrs. Meera Chhibbar'

ORDER

The applicant claims to be legally wedded wife of late Ladha Ram, Electrician, who was serving in the office of respondent No.2 at the time of his death. Shri Ladha Ram died in harness on 11.4.1995.

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(A)

The applicant submits that thereafter she approached the office of the respondents in connection with the release of family pension and other terminal benefits. She also submitted the death certificate and requisite affidavit to the effect that she was the legally wedded wife of the deceased. However, when she approached the office of the respondents, she was shown a letter dated 21.9.1995 saying that her late husband had nominated her name only for CGIES claim and hence the other claims could not be paid to her. She states that she has been given to understand that the respondents are planning to make payments of dues to one of the nominated sons, namely, Shri Om Prakash, son of the first wife of the deceased. The first wife died in 1960. Two children were born out of that wedlock, Shri Jagdish Prasad and Shri Om Prakash, both of whom are now major and are earning their livelihood. The applicant married Ladha Ram on 30.9.61 and her name was entered in the service record of the deceased. When Ladha Ram died, she was the only legal wife along with her own one son and one daughter, and two sons of the first wife. All the four children are married. The applicant therefore seeks a direction to the respondents to release the family pension and other terminal benefits, viz., GPF, DCRG, CGIES, Leave encashment etc. to her along with interest at 18%.

2. The respondents deny the allegation of ignoring the applicant's claim. They submit that since no valid nomination exists in respect of family pension, the applicant is entitled to receive the same and papers to that effect have already been initiated. As regards the death gratuity, there is a valid nomination as

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per R-6 in favour of two sons, Shri Om Prakash - by the first wife - and Shri Prem Kumar, son of the applicant, in equal parts. Papers for the same have been initiated but are pending completion for want of Prem Kumar's signatures. In respect of CGIES / Insurance nomination exists in favour of the applicant and she has been asked to sign the claim. Similarly, leave encashment is also due to her and will be paid to her. As for GPF, there is a nomination in favour of Shri Om Prakash who has also applied for the same and therefore the applicant is not entitled to this benefit.

3. I have heard the counsel on both sides and have also gone through the pleadings on record. The learned counsel for the applicant drew my attention to Rule 33 of the General Provident Fund 'Central Services' Rules which reads as under:-

On the death of a subscriber before the amount standing to her credit has become payable, or where the amount has become payable, before payment has been made:

(i) When the subscriber leaves a family:-

(a) if a nomination made by the subscriber in accordance with the provisions of Rule 5 in favour of a member or members of his family subsists, the amount standing to his credit in the Fund or the part thereof to which the nomination relates shall become payable to his nominee or nominees in the proportion specified in the nomination.

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(b) if no such nomination in favour of a member or members of the family of the subscriber subsists, or if such nomination relates only to a part of the amount standing to his credit in the Fund, the whole amount or the part thereof to which the nomination does not relate, as the case may be, shall, notwithstanding any nomination purporting to be in favour of any person or persons other than a member or members of his family, become payable to the members of his family in equal shares.

Provided that no share shall be payable to:-

- (1) sons who have attained majority.
- (2) sons of a deceased son who have attained majority.
- (3) married daughters whose husbands are alive.
- (4) married daughters of a deceased son whose husbands are alive.

if there is any member of the family other than those specified in clauses (1), (2), (3) and (4).

4. The ld. counsel ~~also~~ submitted that there is a clear provision that even if there is a nomination, it becomes infructuous in case the nominee is a son who has attained majority. In the present case, the nominee Shri Om Prakash has admittedly attained majority and hence the nomination made in his favour becomes ineffective. Therefore, since there is no other minor member amongst the children, the applicant is the sole person entitled to receive the GPF dues. I am unable

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to agree with this contention of the ld. counsel.
Rule 33 'i' provides for two contingencies;

sub-rule 'i''a' deals with the situation when there is a nomination by the subscriber in favour of any member or members of his family;

sub-rule 'i''b' deals with a situation where there is no such nomination or the nomination is only for a part of the GPF amount. Where there is no nomination, GPF amount will become payable to the members of the family in equal shares. This is followed by a proviso which says that sons who have attained majority or sons of a deceased son who have attained majority or married daughters of a deceased son whose husbands are alive, will not be entitled if there is any other member of the family available. Where there is a nomination as per sub-rule 'i''a', there is no question of distribution of share amongst members of the family who did not figure in the nomination. It is clear therefore that the proviso which clearly mentions that "no share shall be payable" pertains only to sub-rule 'i''b'. In this case, there is no allegation that the nomination in favour of Shri Om Prakash, the step son of the applicant, has not been validly made. In view of this, as per 'i''a', Shri Om Prakash is entitled to receive the GPF dues even though he has attained majority.

5. The same would apply in respect of nominations made in respect of DCRG where nomination is in equal share between Shri Om Prakash and Shri Prem Kumar. The respondents have already admitted that the applicant

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is entitled to receive the family pension, leave encashment and insurance money. In view of this, and in the light of the interpretation given of Rule 33 above, this application is disposed of with the direction that the payments of the above amounts, i.e., family pension, leave encashment and CGEIS, including arrears thereof be released to the applicant within one month of her submitting the requisite papers.

No order as to costs.

R.K. Ahuja
'R.K. AHUJA'
MEMBER 'A'

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