

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2233 of 1996
and
M.A. No. 924 of 1997

New Delhi, dated the 27th May, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Mrs. Prem Jain,
W/o late Shri C.S.Jain,
R/o 110, engineers' Enclave,
Delhi-110034.APPLICANT

By Advocate: Shri S.K.Shukla

VERSUS

1. Chairman,
Central Water Commission
and Ex-officio Secretary,
Sewa Bhawan, R.K.Puram,
New Delhi-110066.
2. Director (Admn.),
Central Water Commission,
Sewa Bhawan,
R.K.Puram,
New Delhi-110066. RESPONDENTS

By Advocate: Shri S.M. Arif

3. Ms. Rachna Jain,
D/o late Shri C.S.Jain,
R/o 110, Engineers Enclave,
Pitampura,
Delhi-110034. .. INTERVENOR

By Advocate: Shri N.S.Mehta proxy
counsel for Shri Vijay Mehta

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant Mrs. Prem Jain prays for
issue of appropriate direction to Respondents
for granting family pension to the applicant
w.e.f. 29.11.93 i.e. the date of her
husband's death.

2. Admittedly late Shri C.S.Jain retired from Govt. service as Director, Central Water Commission on superannuation on 30.4.86 and expired on 29.11.93.

3. I have heard applicant's counsel Shri Shukla, counsel for official Respondents Shri S.M. Arif and Shri N.S.Mehta, proxy counsel for Shri Vijay Mehta, counsel for intervenor Ms. Rachna Jain.

4. Shri Shukla states that Ms. Rachna Jain has no locus standi in the case and hence has no right to be heard in the O.A.

5. From the perusal of the reply of the official respondents it transpires that late Shri C.S.Jain was issued a PPO on 12.6.86 for drawing pension and thereafter was issued a revised PPO on 11.8.89. Official Respondents states that as far as payment of family pension, etc. to the family members of late Shri Jain they have in their records ^{the name of} of one Mrs. Asha Jain who was given Form No.3 which was sent to the Pay & Accounts Office. Under the circumstances the official Respondents in their letter dated 6.9.96 had informed the applicant that it was not possible for them to accept ~~her~~ her claim for grant of family pension as a nominee of the late Shri C.S.Jain.

6. While Shri Shukla strongly asserts that his client Mrs. Prem Jain is the legally wedded wife of late Shri C.S.Jain and has referred to certain judicial pronouncements in support of his contention, this assertion is disputed by Shri N.S.Mehta.

7. On the other hand Shri Shukla has asserted that Ms. Rachna Jain has no legal right to claim any share in the family pension in terms of Rule 5 of Chapter 10 in Swamy's Hand Book, 1988 which provides that only unmarried daughters are entitled to the family pension and that too till the age of attaining 30 years or the date of marriage whichever is earlier. Shri Shukla contends that Ms. Rachna Jain has not only crossed the age of 30 years but also she is a twice divorced lady.

8. The question as to which of the claimants is legally entitled to a portion of the family pension or the entire family pension as the case may be, is not within the jurisdiction of this Tribunal to determine. For this purpose, it is open to the parties concerned to establish their legal claims to a part of, or the whole of the family pension in the appropriate judicial forum, and thereafter produce documentary proof of the legality of such claim before the official Respondents for release of the family pension.

9. Shri Shukla has invited my attention to the Hon'ble Supreme Court's ruling in Smt. Bhagwanti Vs. U.O.I. 1989 SCC (L&S) 653, but that ruling is clearly distinguishable on fcts from the present one in as much as in that case the petitioners were widows, and also had minor children from such wedlock. In the present case, the question whether the applicant is the legally wedded wife of the deceased retiree is disputed, and under the circumstances Smt. Bhagwanti's case (Supra) does not help the applicant.

10. This O.A. together with M.A. No. 924/97 filed by Ms. Rachna Jain seeking intervention in the O.A. is disposed of in terms of Para 8 above. No costs.

Arfahgi
(S.R. ADIGE)
Member (A)

/GK/