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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.433 of 1997

New Delhi, this the 10th day of February, 1998.

Hon'ble Mr. N. Sahu, Member(A)

G.L. Bhatia
S/o Sh. G.D. Bhatia
R/o 9, Sunrise Apartments
D-Block, Vikaspuri,
New Delhi- 110 018

...Applicant

(By Advocate : Mohd. Nayeemuddin)

Versus

Union of India : through

1. The Secretary
Ministry of Communication
Department of Posts,
Dak Bhawan,
New Delhi- 110 001
2. The Genral Manager
Mahanagar Telephone Nigam Ltd.
Khurshid Lal Bhawan
Janpath
New Delhi - 110 011

...Respondents

(By Advocate : Sh.V.K. Rao)

ORDER

By. Sh. N. Sahu, Member(A) -

The applicant's wife late Smt. Mahesh Kumari Mehta was employed with the MTNL. She retired on 30.04.1985. She died on 26.09.1993. At the time of her death she was survived by her husband, the applicant, two married daughters and two sons. The applicant claims to be the sole legal heir to receive family pension. He submitted an application and a representation. He was informed by the impugned order dated 18.11.1996 that the transfer of family pension to him cannot be entertained as late Smt. Mahesh Kumari Mehta, his wife, did not nominate him anywhere in the pension papers. Under the Family Pension Scheme, pension is payable only to one member of the family at

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a time. Family members comprise of three categories, (i) husband; (ii) sons and (iii) unmarried daughters. Payment will be made in the above order. If payment is made to the widow or widower, the other two categories are excluded. After the death of the widow or widower, if the sons are paid the unmarried daughters are excluded. This eligibility of unmarried daughters will start only after the eligibility of sons has been exhausted.

2. The respondents state, after notice, that as per Rule 54, Para 12 of the CCS Pension Rules, the retiree is required to furnish all the members of his family. The employee did not mention the applicant's name in the list of family members. She has nominated her two sons as the original nominees and daughters as alternate nominees. This implies that the applicant has been excluded from the list of family members. At the time of her retirement, she only submitted her single photograph and not a joint photograph.

3. Late Smt. Mahesh Kumari Mehta retired on 30.04.1985. She died in September, 1993. She earned the right to pension and her family earned the right to family pension entirely because of the services rendered by her. Her nomination is conclusive in this regard. Family pension is a benefit to the surviving members of the family and the applicant was not considered as part of the family by the Govt. servant. The nomination is entirely conclusive in this regard. That apart, the nominations made could have been questioned in 1985 when the Govt. servant retired. Although right to family pensions operates

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on the death of the Govt. servant, yet the legal rights to family pension are settled by existing nominations which are expressed in pension orders issued at that time. These having been settled, the applicant is estopped from raising the same after 12 years.

4. OA is dismissed. No costs.

Narasimhaswami
(N. Sahu) 10/2/98
Member (A)

/Kant/