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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.12090/94

New Delhi: May 15, 1995.

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

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J).

Smt.Kaushalya,
w/o Late Shri Ashok Kumar,
employed as W/Constable, No.11050/DAP,

Palam Airport,
New Delhi,

R/o Village & Post Office Barwala,
Delhi-39. Sh.

By Advocate/Sant Lal

.....Applicant.

Versus

1. The Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi-110002.

2. The Deputy Commissioner of Police,
North Distt. Civil Lines,
Delhi -110054

.....Respondents.

By Advocate Shri Rajinder Pandita.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

In this application, Smt.Kaushalya w/o Late Shri Ashok Kumar, Constable of Delhi Police, has impugned the orders dated 24.2.94 and 6.7.94 (Annexures A-1 and A-2), and has prayed for a declaration that she is entitled to the payment of family pension, DCRG, and other pensionary benefits including Group Insurance in accordance with CCS(Pension) Rules, 1972 and standing orders of the Government as widow of the deceased employee and for payment of the said amounts with interest.

2. Shortly stated, the applicant's deceased husband Shri Ashok Kumar was dealt with departmentally on the charge of driving Govt. vehicle in a drunken state on 23.3.83, resulting in an accident with bullock cart and damages to the vehicle. The

7

Disciplinary Authority imposed a punishment of permanent forfeiture of five years' approved service vide order dated 2.7.84 against which the applicant (deceased) filed an appeal which was also dismissed vide order dated 12.2.85. Thereafter, he filed a revision petition which too was dismissed on 7.5.85.

3. Shri Ashok Kumar had also filed a writ petition in Delhi High Court against his dismissal which was transferred to the Tribunal vide T.A.No. 1273/85. Upon the demise of Shri Ashok Kumar on 10.10.90, the T.A. was ⁱⁿpersuaded by his widow/legal heir, and was eventually decided on 16.8.91 (Annexure-A3) by which the impugned orders of the Disciplinary Authority, Appellate Authority and the Revisional Authority were quashed and as the applicant had died during the pendency of the proceedings, it was noted that it was not possible to direct the respondents to reinstate the applicant (deceased). However, it was held that the legal representatives of the deceased would be entitled to the monetary benefits which ^{would have} ~~were~~ accrued to the applicant had he been alive, and these monetary benefits were quantified as Rs. 30,000/- which the respondents were directed to pay to Late Shri Ashok Kumar's widow (applicant in the present O.A) who had been impleaded as his L.R., in full and final settlement of the claims.

4. When the applicant approached the respondents for release of the family pension and other retiral benefits, she was informed by letter dated 24.2.94 (Annexure-A1) that a sum of Rs. 30,000/- has already been paid in full and final settlement of the claims and she was not entitled for the other benefits

8

and, therefore, she approached the Tribunal for clarification. Thereupon, the applicant filed M.A. 705/94 in the Tribunal, which was disposed of by order dated 13.4.94 (Annexure-D) holding that there was no ambiguity in the judgment and if the applicant had any grievance regarding the non-grant of family pension and other retiral benefits, she was free to seek remedy, if so advised according to law. M.A. as not maintainable was, therefore, disposed of accordingly.

5. The applicant has filed this O.A. seeking release of family pension and other retiral benefits. The stand taken by the respondents is that a sum of Rs. 30,000/- represents the full and final settlement of his claims and she is not entitled to any other benefits.

6. It may be mentioned that the applicant has also been appointed as a Lady Constable in Delhi Police.

7. We have heard Shri Sant Lal for the applicant and Shri R. Pandita for the respondents. Shri Sant Lal has invited our attention to the words of the judgment dated 16.8.91, wherein the monetary benefits were quantified by the Tribunal to Rs. 30,000/- and was payable to the IRs of Delhi Police Constable, though those accrued to him had he been alive. Shri Sant Lal has stated that this sum represents ^{an amount} ~~which~~ the applicant would have received, consequent to his reinstatement, after the impugned dismissal order was quashed had he been alive, but as he had died in the interim, these monetary benefits were quantified to Rs. 30,000/- and paid to his widow. The family

9

pension and other retiral benefits would not have accrued to an employee had he been alive and merely because in the body of the judgment dated 16.8.91, it was mentioned that the sum of Rs.30,000/- was payable to Late Shri Ashok Kumar's widow in full and final settlement of the claims, could not understand to mean that she was not eligible for grant of family pension and other retiral dues.

8. We see considerable merits in Shri Sant Lal's contention. From the wordings of judgment dated 16.8.91, it is clear that a sum of Rs.30,000/- was to be paid ⁱⁿ by the respondents ^{to} the applicant before us, because her husband, in respect of whom the disciplinary order was set aside, could not be reinstated, he having died in the interim. This order can in no way ^{be} construed ^{to} mean that the applicant ^{can be} was denied the family pension and other retiral benefits in case she is under rules otherwise eligible for the same.

9. In the result, this application succeeds and is allowed to the extent that the respondents are directed not to interpret the Tribunal's judgment dated 16.8.91 to mean ^{that} the applicant is ineligible for the release of the family pension and other retiral benefits, merely because she, as the L.R. of her deceased husband Late Shri Ashok Kumar, was paid Rs.30,000/-, after his dismissal order was set aside, he having died in the interim. Instead the respondents should consider the grant of family pension and other retiral benefits admissible to the applicant in accordance with the extant rules on the subject, and in the event they still hold that she is not eligible for the

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same, should pass a detailed speaking and reasoned order thereon. These directions should be implemented within four months from the date of receipt of a copy of this judgment. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)