

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

OA No.1629/94

(3)

New Delhi this the 4th day of August, 1999.

**HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN (J)**  
**HON'BLE MR. R.K. AHOOJA, MEMBER (A)**

1. Shri M.R. Singh,  
S/o late Shri Sunder Lal,  
10, Arjun Nagar,  
Near Green Park,  
New Delhi.

2. Smt. R.B. Devi,  
W/o Shri M.R. Singh,  
R/o 10, Arjun Nagar,  
Near Green Park,  
New Delhi.

...Applicants

(By Advocate Mrs. Nidhi Bisaria)

-Versus-

1. Lt. Governor  
through  
Chief Secretary,  
Govt. of NCT of Delhi,  
Delhi Administration,  
Old Secretariat,  
Delhi.
2. Director of Education,  
Old Secretariat,  
Delhi Administration  
Government of NCT of Delhi.

3. Union of India through  
Secretary,  
Ministry of Personnel,  
Public Grievances & Pensions,  
North Block,  
New Delhi.

...Respondents

(None for the respondents)

**ORDER**

**BY REDDY, J.**

Heard the learned counsel for the applicants. None appeared for the respondents.

2. The applicants are the parents of the deceased Government servant Km. Sheela. While working as a Trained

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Graduate Teacher, Kum Sheela expired on 2.6.93. The applicants made an application on 17.9.93 for the grant of family pension under the C.C.S. (Pension), Rules, 1965 (for short, Rules), but the respondents rejected her claim, by the letter dated 27.6.94 on the ground that under Rule 54 (14)(b)(i) of the Pension Rules, parents are not covered under the term 'family' as defined in the Rules. Aggrieved by the order of rejection of the claim, the applicants filed this OA.

3. The definition of 'family' in Rule 15 (14) (b) (i) of the above Rules is challenged as arbitrary and discriminatory, as violative of Articles 14, 16 and 21 of the Constitution. Placing heavy reliance on Rule 15 and Rule 4 relating to the grant of Liberalised Pensionary Awards, it is sought to urge that the definition of 'family' in Rule 54 (14) (b) (i) excluding the parents for the benefit of the family pension on the death of their unmarried daughter is arbitrary and discriminatory.

4. We are not persuaded to accept the argument. It is not in dispute that benefit of pension is payable to such of those persons coming within the definition of 'family'. The definition of 'family' is given in Rule 54 (14) (b)(i). It speaks of wife or husband, son and unmarried daughters who have not attained the age of 25 years. Parents are excluded from the definition. It is true that in Rule 50 the definition of 'family' includes parents. Rule 50 speaks of payment of retirement/death gratuity if

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a Govt. servant becomes entitled for gratuity/pension  
within five years <sup>from</sup> on the date of retirement from service  
the residuary gratuity is granted to his family. But Rule  
(6) defines 'family', which includes term parents also.  
Here, it is the case of payment of residuary gratuity on  
the death of the employee, which is earned by the  
Government servant for which all the heirs of the deceased  
are entitled. From the definition it is seen that all the  
relations of the deceased are shown as the persons to whom  
grautity should be paid. The liberalised pensionary awards  
rules provide for payment of incentive awards in the case  
of death/ disability as a result of an attack by or during  
action against extremists, anti social elements or during  
war. Rule 4 speaks of such awards to be given to the  
family in the event of a death of a Government servant.  
As per sub rule (4) of the Liberalised Pensionary Awards  
Rules if Government servant dies as a bachelor or widower  
without children, the award has to be paid to the parents  
in certain circumstances. Here also, the mode of payment  
of the awards which a Government servant was entitled  
under the above scheme was mentioned. The above two  
instances contemplate the payment of the eligible gratuity  
or the award payable to the deceased to the relations of  
the family, including the parents. On the other hand,  
Rule 54 provides for the first time in 1964 the payment of  
family pension to certain members of the family of the  
deceased Government servant. Prior to 1964 no family  
pension was provided for to any members of the deceased  
Government servant. Therefore, a right was conferred under  
Rule 54 and it has to be paid in accordance with the

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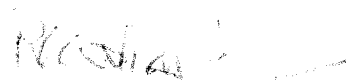
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provisions of Rule 54. Family pension cannot, therefore, be claimed as a matter of right. It is a right acquired under the Rules. Hence, it has to be paid in accordance with the Rules. As the parents are excluded from such benefit, they cannot claim the same.

5. By virtue of an amendment in the Rule in 1998 the parents are also included in the definition of 'family'. But it will not alter the situation obtaining prior to the amendment. Since the Government felt it desirable to provide family pension to parents of the deceased Government servant, it has suitably amended the rule.

6. In M. Jameela Beevi v. S. Balagopala Pillai 1998 (1) SCSLJ p.368 the Supreme Court was considering the definition of expression 'family', in 90(6-A)(a to i) of the Kerala Service Rules. Under the above provisions, contributory Family pension was admissible to the parents, if they were solely dependent on the deceased and they have no other source of income. Holding that applicants, therein the parents, were dependent on the income of the deceased employee, the Court held that the family pension was to be payable to the parents. In the present case since the rules do not provide for payment of family pension to the parents the respondents rightly rejected the claims of the applicants herein. We do not find any substance in the challenge made to the vires of the definition 'family' in the rules.

7. There is no merit in the OA. The O.A. is dismissed. In the circumstances, no order as to costs.

  
(R.K. Ahooja)  
Member (A)

  
(V. Rajagopala Reddy)  
Vice-Chairman(J)

'San.'