

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
MA No.1489/94 &
OA No.1006/94

(6)

NEW DELHI THIS THE 8TH DAY OF DECEMBER, 1994.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

Bhim Sain Narang
Father of Late Miss Ritu Narang
Mahanagar Telephone Nigam
Darya Ganj,
New Delhi

... APPLICANT

BY ADVOCATE SHRI K.B.S.RAJAN.

vs.

1. The Govt.of National Capital Territory of Delhi through its Chief Secretary Old Secretariat Delhi.
2. The Commissioner Cum Spl.Secretary(Excise) Government of Delhi 2 Battery Lane Rajpura Road Delhi.

BY ADVOCATE SHRI SULTAN SINGH.

ORDER(ORAL)

JUSTICE S.K.DHAON:

This is an application by Shri Bhim Sain Narang, the father of Kumari Ritu Narang. The grievance is that the respondents are not paying to the heir and legal representative of Kumari Ritu Narang, the amount which has become payable under the Central Government Employees' Insurance Scheme(the Scheme) on account of the death of Kumari Ritu Narang.

1. A counter-affidavit has been filed on behalf of the respondents. Counsel for the parties have been heard. Though this OA has not been admitted so far, we are disposing of the same finally with the consent of the learned counsel for the parties.

2. On 15.5.1992, the Commissioner-Cum-Special Secretary(Excise) Delhi Administration Delhi issued a Memorandum stating therein that having been sponsored by the Staff Selection Commission, Kumari Ritu Narang is being offered a temporary post of Grade-IV(DASS) on a pay of Rs.950/- in the scale of Rs.950-1500/-

3. On 15.5.1992, the Commissioner-Cum-Special Secretary(Excise) Delhi Administration Delhi issued a Memorandum stating therein that having been sponsored by the Staff Selection Commission, Kumari Ritu Narang is being offered a temporary post of Grade-IV(DASS) on a pay of Rs.950/- in the scale of Rs.950-1500/-

Sy

7

in the office of the Commissioner of Excise, Entertainment Tax and Director of Prohibition, Delhi. We are not concerned with the terms and conditions laid down in the said Memorandum. However, paragraph 5 of the Memorandum has relevance. According to this paragraph, the appointment will further be subject to a number of conditions. We are concerned with the first condition in this case which states that the production of a certificate of fitness from the competent Medical Authority namely Staff Surgeon, Civil Hospital, Delhi Administration, Delhi.

It is thus clear that the appointment of Kumari Ritu Narang was subject to the condition that she will produce a certificate of fitness. Indisputably, she died before she could be subjected to a medical examination. In the counter-affidavit filed, it is asserted that Kumari Ritu Narang died on 16.6.1992 whereas she was to present herself before the Staff Surgeon on 7.7.1992 for medical examination. It is also stated that she actually remained on duty from 21.5.1992 to 31.5.1992.

4. Our attention is drawn to an application dated 21.5.1992 written by Kumari Ritu Narang to the Commissioner-Cum-Special Secretary (Excise), Delhi Administration, Delhi. In the application, it is recited that she would draw her salary after submission of medical fitness certificate from the Staff Surgeon, Civil Hospital, Delhi Administration, Delhi. On the basis of this application, it is contended that since Kumari Ritu Narang had herself given an undertaking that she would not draw her salary till she produced a medical fitness certificate, the question of her becoming a member of the Scheme did not arise. It is implicit in this defence that Kumari Ritu Narang could not and did not make any contribution towards the Scheme.

9

5. The applicant has produced before us a photostat copy of Office Memorandum No.60/14/77-IC dated 18.9.1978. The subject of this Memorandum is "Central Government Employees' Insurance Scheme". The crucial words in the Memorandum are:"....In case of death of an employee within the same month in which he joins service, recovery of a month's contribution may be made either from his other dues or from the cash sum payable to his family under the Insurance Scheme ".

6. The aforequoted passage from the Office Memorandum aforementioned clearly envisages a situation where a Government employee has not been paid his salary and, therefore, no amount should be deducted from his salary as contribution towards the Scheme. To put it differently, this Memorandum clarifies that drawing of the salary by the employee concerned is wholly irrelevant for the purpose of his being a member of the Scheme. It follows that the application dated 21.5.1992 given by Kumari Ritu Narang could not and does not deprive her heir and legal representative, the benefit of the Scheme. At most, it can be argued on the basis of the said application that no salary would be payable to Kumari Ritu Narang. We make it clear that we are expressing no final opinion on this question. In the Office Memorandum dated 18.9.1978, the stand taken by the respondents in the counter-affidavit is untenable. The respondents shall, however, be entitled to recover a month's contribution of Kumari Ritu Narang either from her other dues or from the cash sum payable to her family under the Scheme. We, therefore, direct the respondents to make the payment due to the applicant after making recoveries, if necessary. The payment shall

87

9

be made to the applicant by the authority concerned within a period of three months from the date of production of a certified copy of this order by the applicant before it.

7. This OA is accompanied by an MA seeking the condonation of delay in the filing the same. We have gone through the contents of the same and we are satisfied with the explanation offered. MA No.1489/94 is allowed.

8. This OA succeeds and is allowed. There shall be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A)

S.K. Dhaon
(S.K. DHAON)
VICE-CHAIRMAN(J)

SNS