

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2471/2000

Hon'ble Shri Shanker Raju, Member (J)

New Delhi, this the 10th day of August, 2001

Smt. Banarasi
w/o Late Sh. Bhagwan Singh
r/o Vill. & P.O.-Mandhauri
Teh - Neem Ka Thana
Distt - Sikar (Rajasthan).

.. Applicant

(By Advocate: Shri U.Srivastava)

Vs.

Govt. of NCT Delhi, through

1. The Chief Secretary
Govt. of NCT Delhi,
5, Sham Nath Marg
New Delhi.

2. The Commissioner of Police
Police Headquarters
I P Estate
New Delhi.

3. The Deputy Commissioner of Police
Police Control Room,
Delhi.

... Respondents

(By Advocate: Shri Ratthi, proxy of Shri Devesh Singh)

O R D E R (Oral)

By Mr. Shanker Raju, Member (J):

The applicant in this case has challenged an order passed by the respondents whereby, after an ex-parte enquiry has been held, he has been dismissed from service. The learned counsel for the applicant states that since her husband was missing from 24.4.1996, she has lodged an FIR on 10.4.1997. Thereafter she was accorded the GPF by the respondents after producing the copy of the FIR by the applicant to the respondents. In this back-ground it is stated that as the GPF has been paid to her on the basis that her husband was missing, she has also entitled for accord of family pension and for this she placed reliance on the Government of India's Instructions

contained in Rule 54 of the CCS (Pension) Rules, 1972 (hereinafter called as "Pension Rules"). The applicant inter-alia contended that the family pension is admissible to her also from the date of the alleged missing or died of the Government servant. It is also stated that, as provided under Rule 41 of the Pension Rules a Government who is dismissed or removed from service, if the case is deserving of special consideration, may be sanctioned a compassionate allowance not exceeding two-thirds of pension or gratuity or both by the competent authority which would have been admissible to him if he had retired on compensation pension. 12

2. The learned counsel for the respondents, strongly rebutting the contentions of the applicant and stated that the applicant's husband has remained unauthorizedly absence from duty and as such he was dismissed from service w.e.f. 26.5.1998. It is stated that after dismissal the Government servant forfeited^{he} his right of pensionary benefits and is only entitled for GPF which has already accorded to the wife of the applicant. It is also stated that unless the dismissal order dated 26.5.1998 is set-aside there is no question of according him the pensionary benefits including the family pension as provided under Rule 54 ibid.

3. I have carefully considered the rival contentions of the parties and also perused the material on record. I agree with the learned counsel for the respondents that unless there is a challenge to the dismissal order dated 26.5.1998, and the same

is set-aside the applicant shall have no valid claim for pensionary benefits which includes the family pension also. As regards the Rule 54 of the Pension Rules is concerned, the same would have any application if the FIR has been lodged one year prior to presenting a claim for family pension, which is admittedly 10.4.1997. But here the situation is that before presentation of the claim for family pension the applicant has been dismissed from service. As such no relief can be granted to the applicant as far as applicability of Pension Rules 54 is concerned. However, the request of the learned counsel for the applicant that in the even she makes a representation for compassionate allowances under Rules 41 of the Pension Rules, the respondents may be directed to consider the same and this can be acceded to. (B)

4. In the result, although the applicant has failed to make any claim for family pension in absence of challenge to the dismissal order which cannot be adjudicated by a Single Bench. The applicant is accorded ^{liberty} to challenge the same before the appropriate Bench in accordance with rules. However, the respondents are directed, in case applicant makes a representation under Rule 41 of the Pension Rules, to consider the same within a period of four weeks from the date of receipt of a copy of this order. The respondents shall dispose of the same keeping in view of the indigent conditions of the family and the circumstances within 8 weeks thereafter. The OA is disposed of accordingly. No costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)

/RAO/