

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1332
T.A. No.

1989.

DATE OF DECISION 25.9.1 989.

Smt. Magan Mala Jain Applicant (s)

Shri Randhir Jain, Advocate for the Applicant (s)

Versus
Union of India & Ors. Respondent (s)

Shri K. L. Bhandula, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. Srinivasan, Administrative Member.

The Hon'ble Mr. T.S. Oberoi, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes.
2. To be referred to the Reporter or not ? No.
3. Whether their Lordships wish to see the fair copy of the Judgement ? No.
4. To be circulated to all Benches of the Tribunal ? No.

JUDGEMENT (ORAL)

(Delivered by Hon'ble Shri P. Srinivasan)

This application has come up for admission today with notice to the respondents. Shri Randhir Jain, learned counsel for the applicant and Shri K.L. Bhandula, learned counsel for the respondents have been heard. Shri Tribhuvan Jain, learned counsel who is present in court states that he represents the un-married daughter of the applicant whose interests would be adversely affected if this application is allowed.

2. The applicant is the mother of late Shri V.K. Jain, who died on 17.12.1986 while he was still in Government service as a Director in the Central Electricity Authority (C.E.A.) The late Shri V.K. Jain had made no nomination during his ^{life} ~~time~~ in respect of the terminal payments like Provident Fund, Gratuity, Central Government Group Insurance, etc. On the death of the late Shri V.K. Jain, two applications were made to the C.E.A., both dated 7.1.1989, one signed by Dr. Narendra Prasad Jain, father of V.K. Jain, who was

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then alive and the other by Dr. Narendra Prasad Jain and Mrs. Magan Mala Jain, the applicant herein. Along with the first mentioned application addressed to the Chairman, C.E.A., Dr. Narendra Prasad Jain enclosed applications from three persons in respect of the D.C.R. Gratuity due on the death of late Shri V.K. Jain, namely, himself, his wife and his only unmarried daughter. By the second application, Dr. Jain and the applicant herein requested the Chairman, C.E.A. to disburse the amount due on the death of deceased under the Group Insurance Scheme to them. It is common ground that the D.C.R. Gratuity was paid out in equal shares to Dr. Jain, Mrs. Jain (the applicant) and the unmarried sister of the deceased Shri V.K. Jain. The amount due under the Central Government Group Insurance Scheme (CGGIC) was however, not disbursed at the time. We are told that subsequently, Dr. Jain died on 12.11.1987. Thereafter, the applicant addressed a letter dated 11.2.1988 to the Chairman, C.E.A. reporting the death of Dr. Jain on 12.11.1987 and requesting that the balance of the Provident Fund amount be paid to her exclusively. There is a dispute among the parties as to when this letter reached the Chairman, C.E.A. which we need not go into at present. But even before this, the Under Secretary, Central Electricity Authority (C.E.A.) wrote to Dr. ^{M. Jain} Prasad on 19.3.1987 stating that under the G.P.F. Rules, letters of administration, probate or Succession Certificate had to be produced by the claimants where no nomination had been made by a retired Government Servant in respect of G.P.F. Meanwhile, the unmarried daughter of the applicant, namely, Manju Jain also addressed a letter dated 5th September, 1988 to the Under Secretary, C.E.A., requesting that her share in the balance of the Provident Fund amount of late Shri V.K. Jain be paid to her. By another letter dated 8.3.1989, Ms. Manju Jain claimed her share not only in the balance of the Provident Fund amount but also in the amount payable under CGGIC. The respondents find

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themselves on the horns of a dilemma as to whom they should pay the amounts. In this application, the applicant contends that under the Hindu Succession Act, she, as the mother of the deceased V.K.Jain, is a Class I ^{M heir} to the exclusion of her unmarried daughter and as such she is entitled to be paid the entire amount standing to the credit of the Provident Fund of late Shri V.K.Jain as well as the amount due under the CGGIC claim.

3. Shri Randhir Jain, submits that this is a service matter which this Tribunal is exclusively competent to adjudicate and that on merits the applicant is entitled to have her claim granted. Shri K.L.Bhandula, for the respondents submits on the other hand that this is a matter outside the scope of "service matters" and as such this Tribunal has no jurisdiction over it. Shri Tribhuvan Jain submits that under the C.P.F. Rules his client, the unmarried sister of the deceased is entitled to an equal share with her mother in the G.P.F. and Insurance amounts.

4. We have given the matter very careful consideration.

Shri Randhir Jain drew our attention to Section 14 of the Administrative Tribunals Act, 1985 which, inter alia, states "the Central Administrative Tribunal shall exercise..... all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to

(a).....

(b) all service matters concerning

(i)

(ii)..... a person (not being a member of an All India Service or a person referred to in Clause (c)) appointed to any Civil Service of the Union or Civil post under the union; or

(iii)..... and pertaining to the service of such person..... in connection with the affairs of the Union.....

(Portions not relevant for the present purpose have been omitted)

He submits that claims for amounts due as terminal payments on the death of a Government Servant by his legal heirs which

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are relatable to his service under the Government fall within the scope of "service matters" and the intention of the Government in enacting the Administrative Tribunals Act, 1985 was that the jurisdiction over all such matters should vest in this Tribunal to the exclusion of all courts except the Supreme Court. He, therefore, submits that since the amounts standing in the Provident Fund and due under the CGEIS being amounts relatable to the service of late Shri V.K.Jain with the Government, claims to such amounts would also fall within the scope of "service matters."

5. Shri Bhandula on the other side contends that the resolution of the question as to whom amounts due on the death of a Government servant should be paid depends on the law of inheritance applicable to the deceased Government servant and not on the service rules. As such it is not a service matter which this Tribunal can adjudicate. An unmarried sister of a Government servant is a member of his family and according to the definition of the term in the relevant rules any amount due towards provident fund or under the CGEIS have to be paid out equally to all members of the family (again according to the rules). When an application was made by the father of the late Shri V.K.Jain for payment of gratuity to himself, his wife (the claimant) and unmarried daughter, the D.C.R. gratuity was paid to each of them equally in accordance with the rules. However, when the father made a claim for payment of the amount standing in the Provident Fund as well as the amount due under the CGEIS exclusively to himself and his wife, excluding the unmarried sister, the rules did not permit such payment. That was why the amounts standing in the Provident Fund and under the CGEIS were not disbursed to the father and ~~month~~ ^{after} of the late V.K.Jain. Subsequently, ~~this~~ ^{the} unmarried sister also demanded payment of her share of the Provident Fund and the amount due under the CGEIS scheme. If payment were to be made under the Government rules, it has to be in equal shares to the applicant and the unmarried sister (the father having died in

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the meanwhile). In the event of a dispute between them, each claimant has to establish her title as legal heir of late Shri V.K.Jain in a Civil Court. It is not as if the respondents are unwilling to pay the amount due but they require a ruling from a competent Court as to who is entitled to the payment before the payment is made.

6. Shri Tribhuvan Jain contends that since according to the rules on the subject payment has to be made in equal shares to all members of the family, his client is entitled to a share alongwith the applicant here and for this purpose it was not necessary for the C.E.A. to get a judgement of a Civil Court.

7. We are of the view that the subject-matter of this application does not fall within the jurisdiction of this Tribunal. ~~An~~ ^M expression of "Service Matters" ~~has~~ ^M been defined in Section 3(q) of the Administrative Tribunals Act, 1985 in following terms:

"Service matters", in relation to a person, means all matters relating, to the conditions of his service in connection with the affairs of the Union or of any state or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters, or
- (v) any other matter whatsoever;"

In our opinion, Shri Bhandula is right when he says that the question that arises in this case has to be decided with reference to the law of inheritance applicable to the estate of the late V.K.Jain and not with reference to the service rules by which he was governed while in service. The law of inheritance applicable ^M is in the Hindu Succession Act. This Tribunal is not competent to pronounce judgement in respect of a matter arising under the Hindu Succession Act, 1956.

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Succession to the estate of a deceased person is a question independent of and unconnected with the fact that he was a Government servant and as such cannot fall under the scope of "service matters" as defined above. It is a matter entirely between the persons who set up rival claims of inheritance in which the Government as the employer of the deceased has to be a silent spectator awaiting the decision of the competent court before disbursing the amounts due. We repeat that this Tribunal is not a competent court to decide matters arising under the Hindu Succession Act.

8. We, therefore, reject the present application at the stage of admission itself. The applicant may approach the appropriate forum for agitating her claim. Parties to bear their own costs.

Oberoi

(T.S. Oberoi)
Member (Judl.)

P. Srinivasan

(P. Srinivasan)
Member (Admn.)