

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

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

994/

1989

DATE OF DECISION 13. 7. 89

Smt. Sarti Devi Petitioner

Shri M.L. Chawla Advocate for the Petitioner(s)

Versus

Union of Indian Airlines Respondent

Shri A.K. Sikri Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. J. Arjani Dayanand, Member (AM)

The Hon'ble Mr. ~~_____~~

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

Dayanand
13/7/89

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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench
Delhi
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13-7-1989

ORIGINAL APPLICATION No. 994/89

Smt. Sarti Devi .. Applicant

Vs.

Union of India and others .. Respondents

Shri M.L. Chawla ... Counsel for the applicant

Shri A.K. Sikri ... Counsel for the respondents

CORUM: The Hon'ble Mrs. J. Anjani Dayanand, Administrative Member

(Judgment delivered by the Hon'ble Mrs. J. Anjani
Dayanand, Administrative Member)

The applicant in this O.A. seeks relief from the Tribunal by way of a direction to the respondents to pay the Family Pension and other terminal benefits to which the applicant is entitled and consequentially to allow interest at 18% for the delayed payment.

The applicant claims to be the first wife of late Shri Ramachander, who was formerly a Lineman (LS 8466), and he died on 13-4-1988 in the R.B.T.B. Hospital, Delhi-9.

It was argued on behalf of the applicant, Smt. Sarti Devi, that the Department had already paid the G.P.F. accumulation on the basis of the nomination given by the deceased husband of the applicant vide Indian Posts and Telegraphs Department, A.O.T.A., Office of the G.M.T., New Delhi letter dated 13-10-1988 and also the G.P.F. linked insurance has also been paid to her vide Indian Posts and Telegraphs Department, A.O.T.A., Office of the G.M.T., New Delhi letter dated 13-10-1988. The learned counsel for the applicant also produced a copy of the appointment order from the Chief General Manager, Mahanagar Telephone Nigam Ltd., New Delhi offering her compassionate appointment in relaxation of recruitment

dated 23.5.89

rules vide his Order No. 268/394/88-STM dated 23-5-1989. He stated that in view of this, it was understandable why the Department has been dragging its feet to release the family pension.

On behalf of the respondents, it was stated that a claim has been filed by one Smt. Kalawati, claiming herself as the wife of late Shri Ramchander, Lineman along with photostat copy of the Ration Card enclosed reveals that the name of Smt. Kalawati and her two sons aged 13 and 11 figured in the Ration Card. The ration card has been signed by the deceased Ramchander with his photograph attached to it. In this context the learned counsel for the applicant quoted the C. & A.G. of India, New Delhi letter No. 211-Audit I/13-86, dated the 4th March, 1987 incorporated in CCS Pension Rules. According to pension Rule 54 Instruction (12) the C. & A.G. has issued instructions prohibiting release of family pension to the 2nd wife when the first wife is living.

As regards the claim of the applicant for interest on the delayed payment, it is seen from the facts of the case that the delay has been occasioned not due to administrative negligence, but due to the fact that the Department was faced with an unusual situation of a claim from one Smt. Kalawati claimed to be the second legally wedded wife who produced the ration card over the signature of the deceased. She has also produced the Death Certificate. In view of this, it would not be proper to hold the respondents responsible for undue delay in payment of her dues. There shall be no order regarding payment of interest.

In the facts and circumstances of the case it is obvious that the applicant is the first wife. Her name finds a place in the nomination for G.P.F., etc. She has also been offered compassionate appointment by the Department. The appearance on the scene by the so called second wife cannot take away the legal right of the first wife to the family pension. The respondents are directed to release the family pension to the applicant after getting from her

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- 1) a sworn affidavit that the applicant has not been divorced by the deceased Ramchander, Lineman (LS 8466) and
- PA 2) ^{to be} an Indemnity Bond for the amount paid to her that in case it is later proved that the second wife Smt. Kalawati has a legal right to the claim, the money will be paid to her.

The application is allowed as above.

The respondents are directed to implement this order within 60 days from the date of receipt of this order.

There will be no order as to costs.

Dayanand
(Mrs. J. Anjani Dayanand)

ADMINISTRATIVE MEMBER