



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.61/690/2020
(S.W.P. No.2824/2001)

Wednesday, this the 9th day of December, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Romesh Kumari, w/o Sh. T.R.Raina,
R/o Dhokbunyad Tehsil, Sunderbani
District Rajouri, agd 49 yars. ...Applicant
(Mr. Rajiv Kumar Sharma, Advocate)

Versus

1. State of Jammu and Kashmir through Hom Secretary, Home Department.
2. Director General of Police, J & K at Jammu.
3. Senior Superintendent of Police Udhampur.

...Respondents
(Mr. Sudesh Magotra, Deputy Advocate General)



O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The son of the applicant herein, by name Sri Deputy Lal, was working as Constable in J & K Police. He died on 14.09.1999 in an accident involving a vehicle, in which he was travelling as an escort to a truck, carrying the ballot boxes. Since he was unmarried, the applicant made a representation for sanction of family pension. It was rejected by the respondents on the ground that the husband of the applicant herein, by name, Sri T.R. Raina, was alive and was working as Sub Inspector in IRP 4th Battalion. It was observed that the case of the applicant cannot be considered in view of Rule 22 (b) of Schedule XV (Family Pension Rules) J & K CSR (Volume 11). Aggrieved by the rejection of the claim, the applicant filed S.W.P. No.2824/2001 before the Hon'ble High Court of Jammu & Kashmir at Jammu.

2. The respondents filed a counter affidavit opposing the T.A. They referred to the relevant facts mentioned therein. In the Hon'ble High Court, the S.W.P. was dismissed for default by a learned Single Judge, but the date of the order was mentioned as '09.10.200'. The applicant filed an I.A. for correction of the same before the Hon'ble High Court, stating that the writ



petition cannot be said to have been dismissed for default in view of the incompleteness of the order. The matter was listed on several occasions, together with I.A. for restoration.

3. In view of re-organization of the State of Jammu & Kashmir, the SWP.No.2824/2001 has been transferred to this Tribunal and renumbered as TA.No.690/2020.

4. Today, we heard Mr. Rajiv Kumar Sharma, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, for the Respondents, through video conferencing.

5. What is transmitted by the Hon'ble High Court to the Tribunal is an S.W.P. Had the same was dismissed in default by the Hon'ble High Court, occasion for transferring the case would not have arisen. It needs to be proceeded as though the Writ Petition remained alive, due to the incompleteness of the order, dismissing it for default.

6. On merits, we find that there exists a reported judgment of the Hon'ble High Court of Jammu & Kashmir, wherein it was



held that even if the father is alive, the mother can claim the family pension in respect of an un-married son, who died while in service. Further, the husband of the applicant has since retired from service. These subsequent developments can be dealt with by the respondents, if only a comprehensive representation is made, duly enclosing a copy of the judgment.

7. We, therefore, dispose of the T.A. leaving it open to the applicant to make a representation to the respondents for sanction of family pension, enclosing a copy of judgment, which is relied upon and mentioning the relevant facts. In case the representation is made, the respondents shall pass appropriate orders, in accordance with law, within three months from the date of receipt of a copy of this order. There shall be no order as to costs.

(A K Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

December 9, 2020

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