

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.84/90

NEW DELHI THIS THE 5th DAY OF JANUARY, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER(J)
HON'BLE SHRI B.K. SINGH, MEMBER(A)

Shri Nyadar Singh, (Deceased)
1. Smt Anguri Devi
(Technical Officer-III)
Locust Warning Officer,
Quarter No.1497 Type II,
NH 4 Faridabad (Haryana) ...Applicant
(By Advocate : Shri R.L.Sethi)

VERSUS

1. UNION OF INDIA, THROUGH
Secretary
Ministry of Agriculture
Deptt of Agriculture & Coop.
Krishi Bhavan,
New Delhi
2. The Plant Protection Adviser,
Government of India,
Directorate of Plant Protection
Quarantine and Storage,
NHIV Faridabad. ...Respondents

(By Advocate : Shri J. Banerjee Proxy Counsel
to Shri Madhav Panikar)

JUDGEMENT (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The deceased employee Shri Nyadar Singh.
Technical Officer, Grade III and during his
life time he filed the present application in
February, 1990 in which he assailed the orders
dated 6.4.1989 and 26.5.89 passed by the
respondents by which the promotion to the deceased
employee ~~employee~~ as alleged was arbitrarily

denied to him. The order of 6th April, 1994 reads that ~~a deceased employee~~ Shri Nyadar Singh will be entitled to the benefit of seniority of the Locus Assistant now Technical Officer(III), in pursuant to the decision of the Hon'ble Supreme Court of India, from the said date but he shall not be eligible for arrears of pay and allowances from 18.11.86 as he did not discharge the duties and functions of that post from the said date. He shall, however, be eligible for notional pay from the said date for the purpose of his fixation of pay in the grade of Field Reporter now Technical Officer (III) in the pay scale of Rs.1400-2300 consequent on his appointment to the said post w.e.f. 19.10.1988.

2. The order dated 28th May, 1989 is the rejection of the representation of the applicant which he has filed for payment of arrears of salary of higher post with retrospective date.

3. The deceased employee prayed for the grant of the reliefs that the impugned orders be set aside and the applicant be allowed the benefit of the post of Locust Warning Officer from the date his junior was promoted with effect from 9.11.73 with consequential benefits and pay and allowances accruing therefrom the post

Locust Technical Officer from 9.11.78 with consequential benefits and pay and allowances and the applicant be allowed for promotion to the post of Assistant Locust Entomologist from the date 9.11.83, with consequential benefits.

4. The respondents contested this application and the applicant also filed the rejoinder.

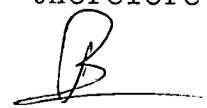
5. M.A.3627/94 was filed by the legal representative of the deceased applicant Late Nyadar Singh, who expired on 4th July, 94 leaving behind the widow Smt Anguri Devi, 4 sons and one daughter, between 15 to 23 years of age with the difference of 2 years of age in each of the wards of the deceased employee. The name of the legal representative was added as it was not opposed by the Counsel for the respondents.

6. The matter came up for hearing today. In fact, this is a case where the legal representative seeks promotion of the deceased employee from 1973, 1978 and from 1983 on various posts in the hierarchy of Plant Protection Officer

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i.e. Assistant Locust Entomologist, Locust Technical Officer, Locust Warning Officer. But a person who is dead cannot be granted promotion. This is because the cause of action does not survive to the legal representative. The matter would have been different if there have been an unliquidated sum which the heirs inherited after the death of the deceased employee. It is argued by the learned counsel for the applicant if the promotion of the applicant is given with retrospective date or the seniority is anti-dated or seniority refixed at particular point of time when the applicant worked on various posts naturally the surviving legal representative will be entitled for some benefits as arrears of pay as well as pensionary benefits or retiral benefits. However, the deceased person cannot get retrospective promotion or the date of his promotion cannot be anti-dated. The learned counsel for the applicant could not refer to any law. With the death of an employee such an action dies with a person and does not survive to the legal representative of the deceased employee.

7. In view of the above facts & circumstances the application does not survive and application therefore is dismissed. No costs.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)