

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * *

Date of Decision: April 10, 1992.

DA 1224/91

Smt. YASHODRA DEVI ... APPLICANT.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... Shri V.P. Sharma,
Counsel.

For the Respondents ... Mrs. Raj Kumari Chopra,
Counsel.

1. Whether Reporters of local papers may be allowed to see the judgement ? *YH*

2. To be referred to the Reporters or not ? *YH*

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

Shri Thakur Dutt, husband of the applicant, was employed as Labour in Ordnance Factory, Muradnagar, UP, died on 19.2.1974. He was appointed as a Labour in the factory on 14.2.1949. The applicant's husband got Tuberculosis and ultimately on medical ground his services were discharged w.e.f. 27.5.1959 after he has availed 18 months extra ordinary leave.

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...2.

2. After the death of her husband, the applicant filed a representation for grant of family pension, in view of the OM No.1/75/87-PR/P/W dated 14.1.1988 issued by the Department of Pension and Pension Welfare. His request was rejected by the respondents by the letter (Annexure A-1) dated 1.1.1989 intimating that the services of Shri Thakur Dutt were terminated after expiry of 18 months extra ordinary leave without pay on the long absence, his case, therefore, does not come under the purview of family pension and Ex-gratia Scheme. An another letter dated 10.12.1989 (Annexure A-2) addressed to the applicant, also stated that the case does not come under the purview of instructions contained in the OM dated 14.1.1988, issued by Department of Pension and Pension Welfare.

3. The applicant, in this application claimed relief that the impugned order dated 1.1.1989 be quashed and also declare the termination order dated 27.5.1959 as illegal and further grant of consequential leave of family to the applicant w.e.f. 22.9.1977.

4. I have heard the learned counsel for both parties at length. It is not disputed that the applicant's husband Shri Thakur Dutt was in the employment of Ordnance Factory, Muradnagar. Respondent No.3, and that he had put in more than 10 years of service when his services were discharged on account of his long

absence w.e.f. 27.5.1959. The death of the employee is also admitted by the respondents on 9.2.1974. The respondents filed a reply but in the short reply filed by the respondents on 11.9.1991 does not deny the various facts pleaded in the application and it appears that this is only reply on the point of the admission. In the reply filed by the respondents, the plea taken is that the applicant is not wife of late Shri Thakur Dutt, as the deceased in the GPF Form, submitted on 13.5.1952, nominated a lady by the name Smt. Tara Devi as his wife. However, the applicant has filed an affidavit of herself, of Sachidanand and of Ram Prasad and all^{of} them have in the said affidavit separately deposed that the applicant is the wedded wife of Shri Thakur Dutt. It is stated that she also had the name Tara Devi and her alias has been Yashodra Devi. However, in the impugned letter sent to the applicant on 11.11.1989 (Annexure A-1) and letter dt. 11.12.1989 (Annexure A-2), the respondents have not taken the plea that the applicant is not the wife of the deceased Thakur Dutt. Thus, this contention raised by the respondents for the first time, is not supported by any earlier communication sent to the applicant. It is a fact that in the nomination form of the Provident Fund, the name of Tara Devi is mentioned but it is also not un-common that in village life the woman may also

have a nickname or an alias. The address given by this lady as was that of deceased employee. The identity that the present applicant is not wife of the deceased employee cannot be disputed. The respondents have also considered the case of the applicant on the basis of the fact that she is wife of deceased employee Shri Thakur Dutt. Now the stand taken in the counter cannot be accepted.

5. The next question remains whether the deceased employee has put in qualifying service for the grant of pension or not. The OM issued by the Department of Pension and Pension Welfare on 14.1.1988 referred to above entitle to the grant of family pension to the legal representative of the deceased employee. If the deceased was discharged from service on account of long absence due to illness; after he has availed of 18 months of leave, will not dis-entitle for the grant of pension under CCS Pension Rules, 1972. Though, it is not made clear whether the applicant was permanent employee nevertheless he acquired quasi permanent status and has work continuously from 1949 till the date he was discharged from service in 1959. His service was never ceased nor breaks in service were given.

6. In view of the above facts, the application is disposed of with the ^d~~above~~ directions to the respondents to grant family pension to the applicant, Yashodra Devi,

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alias Tara Devi as per her entitlement according to extant rules. However, she will be entitled to the arrears of pension not from 1977 but from the date when she made the representation to the respondents i.e. from 4.7.1989. The directions be ^{complied} ~~completed~~ within 12 weeks from the date of receipt of this order.

7. Other reliefs claimed by the applicant of ^{of her husband} declaring the order of termination dated 27.5.1959 as illegal is totally barred by limitation and the applicant has no right to assail the same, and that relief is disallowed.

In the circumstances, the parties are directed to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)

10/4/82