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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

NEW DELHI.

O.A.No.558 of 1991.

Date of Order: 26th Feb., 1992.

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| <u>Smt. Manju</u> | Petitioner. |
| <u>Shri V.P. Sharma</u> | Advocate for the petitioner(s). |
| Versus | |
| <u>U.O.I. & Ors.</u> | Respondents. |
| <u>Shri P.H. Ramchandani</u> | Advocate for the Respondent(s). |

CORAM:

1. The Hon'ble Mr. KAUSHAL KUMAR - VICE CHAIRMAN.
2. The Hon'ble Mr. T.S. OBEROI - MEMBER (JUDL.)

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. Whether it needs to be circulated to other Benches of the Tribunal? No.

Mr. KAUSHAL KUMAR, VICE CHAIRMAN.

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for payment of family pension and other retiral benefits consequent upon the demise of her husband who was a Government servant employed in the Delhi Milk Scheme. The applicant is the second wife of the deceased Government servant who had a son from his first wife and three issues from the second wife. The son from the first wife had filed a civil suit in the Court of Senior Sub Judge, Rewari and the learned Judge granted a stay on 6/10/1990 as under :-

" The parties are directed to maintain status quo regarding drawing of Provident Fund, Gratuity, Pension, as mentioned in para No.9 of the Plaint till further order".

Subsequently, he passed the following order on 29/11/91 :-

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" The defendant No.1 is restrained from drawing more than 4/5th share in the PF, Gratuity and Group Insurance Scheme of deceased Ganpat Ram till the pendency of the suit. The parties are left to bear their own costs. The ex parte restraint order of 6.10.90 is modified accordingly".

2. The respondents subsequently issued an order dated 13th January, 1992, a copy of which was produced before us at the time of hearing by which sanction was given for payment of family pension and DCRG. Certain other terminal benefits were also disbursed to the concerned parties as stated in detail in the reply filed on behalf of the respondents.

3. The learned counsel for the applicant Shri Sharma contended that the orders passed by the learned Sub Judge were illegal and were not in accordance with the rules and law on the subject. On the other hand, the learned counsel for the respondents Shri Ramchandani argued that the respondents had merely implemented the directions given by the learned Sub Judge.

4. We have carefully considered the contentions advanced by the learned counsel on both sides and hold that unless the orders passed by the learned Sub Judge are quashed or modified by the competent appellate court, their legality cannot be questioned before the Tribunal. Admittedly, the applicant has neither taken any step to challenge those orders nor amended the present O.A. to question the sanctions already issued by the respondents in regard to the payment of family pension and disbursement of other retiral benefits. In

to counsel
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the circumstances, the present application
is not maintainable and the same is accordingly
dismissed with no order as to costs.

T.S. Oberoi 26/2/92
(T.S. OBEROI)
MEMBER (JUDL.)

Kaushal Kumar 26/2/92
(KAUSHAL KUMAR)
VICE CHAIRMAN.