

Central Administrative Tribunal
Principal Bench

OA No. 305 of 2004

New Delhi this the 14th day of September, 2004.

Hon'ble Mr. Kuldip Singh, Vice-Chairman (J)
Hon'ble Mr. S.A. Singh, Member (A)

Sh. Jagdish Prasad (Deceased)
Ex. Principal K.V.S., R.D. Mines,
Rajsamand(Retired) through
His legal representatives

1. Shri Subhash Chandra Verma, son
2. Shri Shekhar Verma, son
3. Shri Deepak Verma, son
4. Smt. Nandni Verma, daughter
5. Smt. Durgesh Verma, daughter

of Shri Jagdish Prasad, all residents of
1/5907, Kabool Nagar,
Shahdara, Delhi – 110 032.

Address for service: Sh. Sant Lal, Advocate,
CAT Bar Room, New Delhi – 110 001.

..Applicants

(By Advocate: Shri Sant Lal)

-versus-

1. The Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi – 110 016.
2. The Sr. Audit & Accounts
Officer (Pension Section)
Kendriya Vidyalaya Sangathan,
H.Qs. 18, Industrial Area,
Shaheed Jeet Singh Marg,
New Delhi – 110 016.
3. The Assistant Commissioner,
Kendriya Vidyalaya Sangathan,
Regional office,
92, Gandhi Nagar Marg,
Bajaj Nagar,
Jaipur-302 015.

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4. The Principal Kendriya Vidyalaya,
R.D. Mines Distt. Rajsamand (Raj) ...Respondents

(By Advocate: Shri S. Rajappa)

ORDER (ORAL)

Hon'ble Mr. Kuldip Singh, Vice chairman (J):

Late Shri Jagdish Prashad was working as Principal at Kendriya Vidyalaya School at R.D. Mines Rajsamand and retired on 31.1.1997. He is alleged to have completed all the formalities with regard to retiral benefits, such as, filling up of pension papers etc. However, his pension case was not decided during his life-time. It is further stated that in his life-time the deceased employee submitted a representation for processing his case. Consequently, respondent no. 2 asked respondent no. 3 for reasons for the delay in processing the pension case of the deceased employee and to fix the responsibility. But because of incomplete service verification, the case could not be processed and no care was taken to check the various entries in the service book. The deceased employee again submitted his pension papers with all connected documents on 28.3.2002 as required vide letter dated 17.1.2002 but still on 9.5.2002 provisional DCRG and pension were sanctioned but the same have not yet been paid. The employee expired on 7.8.2002 before he could get the amount of provisional DCRG etc. The present original application has, therefore, been filed through his legal representatives and it is only on 15.01.2003, the revised DCRG and final pension has been sanctioned but the same has not yet been paid. Applicants submitted an application dated 8.3.2003 for payment of retiral benefits, including

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DCRG, balance of pension, GPF balance, CGEIS, Leave encashment etc. and also claimed interest @ 18%. But the respondent no. 3 asked the LRs of the deceased employee to submit a succession certificate so that the payment of DCRG and other dues could be released to them. However, learned counsel for the applicants requested respondent no. 2 to reconsider the case and arrange the payment and intimate the rules under which the succession certificate has been asked for. Respondent no. 2 informed that under Rules 51 to 54 of the CCS (Pension) Rules, 1972, succession certificate is required. The applicant's case is that a perusal of these Rules would go to show that there is no such requirement. Rather, the respondents are delaying the pensionary benefits further merely to cause serious hardship to the LRs. Thus, applicants have filed the present OA seeking direction to the respondents to release the retiral benefits to them.

2. It appears that during the pendency of the OA, the respondents were directed to place on record the break-up of amount admissible to late Shri Jagdish Prashad and in response to that, the respondents have submitted a letter addressed to the counsel of the applicant giving the break-up of amount admissible to late Shri Jagdish Prashad, which is taken on record. The same is not disputed.

3. The only question which requires consideration in this case is whether the respondent can insist upon the applicants to produce the succession certificate for disbursement of pension, DCRG and other retiral benefits to them. In this regard, the relevant Rules relied upon by the respondents themselves are Rules 51 to 54 of the CCS (Pension) Rules. Rule 51 provides as to the persons to whom the gratuity is payable, Rule 53 provides for nomination and also in the



eventuality where no nomination is made and Rule 54 deals with family pension.

4. On the other hand, learned counsel for the applicants referred to Govt. of India's Decision no. 2, appended to Rule 54, which is reproduced herein below:

“(2) Procedure when a member of the family forgoes his claim- A question has been raised whether the payment of pension can be authorized to the second son or the eldest surviving unmarried daughter of the deceased Government servant if the eldest surviving son gives his consent in writing to forego his claim in favour of his younger brother or sister; and whether the share of the death/retirement gratuity admissible to a member of a government servant's family can be authorized to another member or members in whose favour the former may have forgone his/her claim. The matter has been carefully considered and it has been decided that since government would not in such a case get a good discharge from the eldest son or other member of family having a prior claim to the pension, the safer and more appropriate course would be to sanction the pension only in favour of the member entitled to it under the rules. Similarly, the gratuity should also be paid to all the members of the family in equal shares, as has been provided for in the rules even though any of the members may volunteer or desire that his/her share may be aid to some other member(s) of the family”

(emphasis added)

5. Learned counsel for the applicants has submitted that the applicants have submitted an affidavit to the department stating their relationship with the deceased employee. They have also filed a joint affidavit of one Shri Promod Kumar Verma and Shri Deepak Aggarwal who knew the deceased employee and in their affidavits they certified as to who are the legal heirs of late Jagdish Prashad.

6. Learned counsel for the applicants has also submitted that despite these affidavits having been filed the department is not releasing the retiral benefits of the deceased employee to his L.Rs. It is, therefore, prayed that directions may be issued to the respondents to release the retiral benefits to the applicants.

7. Opposing this, learned counsel for the respondents submitted that though these affidavits have been filed but the same creates suspicion and it is no way to establish and prove that these applicants are the only legal heirs of the deceased. Learned counsel for the respondents further submitted that it is only by obtaining a succession certificate from a competent court of law the applicants can establish that they are the legal heirs of the deceased and this is why the department had insisted upon the applicants to furnish a succession certificate so that retiral dues admissible to the deceased may be released to the applicants.

8. We have heard the rival contentions of the parties.

9. In our view, the contentions raised by the respondents have no merit because no one has come forward to claim the amount other than these applicants as legal heirs of the deceased nor anyone else has claimed that besides these applicants, there are some other legal heirs of the deceased. It is only in the case where there is a dispute where the deceased may have different issues from different wives, the question of succession certificate may crop up. But in this case, the applicants are the direct lineal descendants of the deceased and there is no dispute at all about the applicants being the direct lineal descendants of the deceased and Rules 51 to 54 do not prescribe that

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these LRs are to furnish a succession certificate to claim the retiral benefits.

10. In view of the above discussion, we find that the respondents cannot insist upon the applicants to furnish a succession certificate and we, therefore, direct the respondents to release the retiral dues of the deceased to the legal heirs i.e. the applicants without insisting upon a succession certificate in accordance with the Pension Rules. The respondents are further liable to pay interest @ 9% per annum to the applicants for unnecessary causing delay in releasing the retiral amount to them, which shall be payable from the date the amount fell due as per rules.

With the above directions, the OA is disposed of.



(S.A. Singh)
Member (A)



(Kuldip Singh)
Vice Chairman (J)

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