

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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OA 1950/92

25.09.1992

Smt. Phool Kumari

...Applicant

VS.

Union of India & Ors.

...Respondents

CORAM :

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

For the Applicant

...Shri D.S. Jadotra

For the Respondents

...Shri P.H. Ranchandani

1. Whether Reporters of local papers may
be allowed to see the Judgement?

2. To be referred to the Reporter or not? ✓

JUDGEMENT (ORAL)

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

The applicant, Smt. Phool Kumari is the widow of Shri Mahavir Prasad, who is said to have served as Peon in the Viceroy's Household. The applicant is said to be 86 years of age. It is also stated in the application that her husband, deceased Shri Mahavir Prasad has served till 1942. It is also stated that Shri Mahavir Prasad has since died on 3.10.1983. In this application, the applicant has claimed the relief for grant of family pension as may be admissible to her as per the Rules. She has also claimed arrears of pension.

Notices were issued to the respondents, and Shri P.H. Ranchandani, Senior Counsel appeared for the respondents.

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I have heard the learned counsel for the parties on admission. The learned counsel for the applicant could not show any rules, instructions or OM that a person who retired as early as in 1942 may be in service of the Government of India, then the widow shall be entitled to the family pension as the same scheme has been introduced sometimes in 1964.

The learned counsel for the applicant has been repeatedly asked whether the deceased employee was in the grant of any retirement benefits by way of pension, but the learned counsel could not say on this point. The learned counsel only argued that any sort of pension which could be awarded to her be awarded to the applicant. I do not find that there is any rule ^{or} ~~and~~ circular of the Government of India which entitles the grant of pension to a Government servant, who has already retired in 1942 (This fact is taken for granted on the assertions made by the learned counsel and averment made in the application).

The Hon'ble Supreme Court in the case of All India Pensioners' Association Vs. Union of India, reported in AIR 1988 SC P. 501 have considered the matter where such claims are coming after a lapse of considerable period and they disallowed the claim of retiree before 1973 of All India service. There is another recent decision of the Hon'ble Supreme Court in the case of Shri Krishan Kumar Vs. Union of India, 1990 (4) SCC 207. In that case, there was no rule for

grant of pension at that time and there was a contributory fund scheme to which the petitioner of that case has subscribed. Petitioner of that case, therefore, ~~claims~~ ^{claimed} for the grant of pensionary benefits on the introduction of pensionary scheme. The claim of the petitioner of that case was turned down by the Hon'ble Supreme Court.

State matters of such nature, though they may arouse sympathetic considerations and also magnanimous outlook, cannot be judicially adjudicated favourably for want of any rule, notification or administrative instructions. The applicant is free to move for the grant of *old age* pension or any other pension which could be allowed in old age. She cannot claim any family pension since the husband was not even a pensioner and that he has retired as early as in 1942. The services were governed by the Government of India Act, 1935.

I, therefore, find that this application does not show a prima facie case for its admission, and therefore, it is dismissed at the admission stage under Section 19(4) of the Administrative Tribunals Act, 1985, leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)
25.09.1992