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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A. No.1633 of 1993

13th December, 1993.

Shri P.T. Thiruvengadam, Member (A)

Smt. Ganga Devi,
Widow of late Shri Jorawar Singh,
R/o A-284, Gokalpur (Shahdara),
Delhi-110094.

Applicant

By Advocate Shri T.C. Aggarwal.

Versus

1. Lt. Governor of Delhi,
Raj Niwas,
Ludlow Castle Road,
Delhi-110006.
2. Executive Engineer,
Electric Division, Division No.1,
P.W.D., Delhi Admn.,
Sunlight Building, Asaf Ali Road,
New Delhi.

Respondents

By Advocate: None.

(Oral) O R D E R

Shri P.T. Thiruvengadam, Member

This case has been coming up for hearing on a number of occasions. After many adjournments, when the case came up on 2.11.1993, the only issue to be sorted out was whether the applicant's husband was settled under the C.P.F. Scheme. Two weeks' time was given to produce the relevant records and the case was listed on 25.11.1993, 30.11.1993 and 1.12.1993. On all these days, none was present nor any records produced. Even today, when the case has been listed, there is none from the respondents' side.

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2. The learned counsel for the applicant referred to page 21 of the paper-book, which is a copy of a letter from the Executive Engineer, C.P.W.D., Elec. Division, New Delhi, to the Deputy Secretary in the Department of Pension & Pensioners Welfare dated 17.7.91, wherein it has been stated that no record is traceable at this late stage and it is not possible to ascertain whether the husband of the applicant was a P.F. beneficiary. The only portion which could be checked was that he was not eligible for the grant of pension/gratuity, as he was a semi-permanent hand of the department. The applicant has averred that she was not paid anykind of pensionary benefits at the time of the death of her husband on 16.5.1960 in harness. She has referred to Executive Engineer (Elec.)'s letter dated 20.11.1962 which conveys the decision that the deceased was not entitled for any pension gratuity as he was only ~~semi-permanent~~ semi-permanent at the time of his death. This would establish that he would have normally been paid pension, gratuity, etc., had he continued in service and would also establish that he was not a P.F. optee - as argued by the applicant.

3. The learned counsel for the applicant further referred to the Ministry of Personnel & Training O.M. No. ~~1111~~ 111/85-Pension Unit dated 18.6.1985, para.4, which reads as under:-

"4. During the hearing of these petitions, the Government of India made a statement on 15.4.1985 before the Court, on their own, indicating as to what extent they would be prepared to accept the claim of the widows. Keeping in view the statement filed by the Government and clarifications subsequently given, the Supreme Court of India has delivered its judgement on 30th April, 1985, extending with effect from 22.9.1977, the benefits

of Family Pension Scheme, 1964 to the families of those Government servants who were/are borne on pensionable establishment and are presently not covered by that Scheme, namely, the families of those Government employees who retired/died before 31.12.1963, and of those who were alive on 31.12.1963, but who opted out of the 1964 Scheme."

4. It is not under dispute that the establishment where the applicant was serving is a pensionable establishment. Even the department, in their letter dated 30.3.1991 annexed with the rejoinder recommended that family pension may be granted to the applicant as per the provisions of the above O.M. I am convinced by the argument of the applicant that the letter written on 20.11.1962 by the Executive Engineer (Electrical) clearly mentioned that the applicant was not eligible for pension, gratuity, as he was only semi-permanent. Had the employee been governed by the Provident Fund Scheme, such a statement could not have been made. The ~~blank~~ denial of the respondents that the applicant is not governed by Pension Rules, cannot be accepted.

5. In the circumstances of the case, the O.A. is disposed of with a direction to the respondents to pay the family pension in terms of the O.M. referred to above (O.M. dated 18.6.1985). No costs.

P. J. 26
(P.T. Thiruvengadam)
Member(A)

SLP