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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.2328/1993

New Delhi, This the 30th Day of May 1994

Hon'ble Shri P.T. Thiruvengadam, Member(A)

Smt Janki Devi
r/o c/o 448/2, Shakti Nagar
Gurgaon(Haryana)

...Applicant

By Smt Promilla Aggarwal, Advocate

Versus

1. Union of India Through
The Secretary
Ministry of Defence
South Block
New Delhi.
2. The Chief Controller of Defence
Accounts(Pension)
G.I. Circle Sec CPF Ind
Allahabad 211001 (U.P.)
3. Commandant
Ordnance Depot
Shakur Basti Depot
Delhi 110056
4. Controller of Defence-Accounts(PD)
D-1 Block, Sena Bhavan
New Delhi 110001.

By Shri H K Gangwani, Advocate

O R D E R (Oral)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. This OA has been filed by the applicant who is the widow of one Shri Tej Bhan who was employed as Mazdoor at Ordnance Depot, Shakur Basti, Delhi. Shri Tej Bhan retired on 31.5.80. The industrial personnel in Ordnance Depot were covered by Provident Fund Scheme and were not initially entitled for pensionary benefits. For the first time pensionary benefits were extended to industrial personnel

in 1964 and they were asked to give option whether they wish to opt for pensionary benefits or would like to continue with IOFPW Fund Benefits/CPF Scheme.

Atleast three options were given upto 1969. It is the case of the respondents that the applicant's

husband never opted for the pension scheme. After

his retirement for the first time in 1982 he

requested that he may be given the pensionary benefits. This request was turned down. Shri

Tej Bhan died on 5-7-1988. The applicant who is

the widow continued to represent for pensionary

benefits. In the meantime the ex-gratia benefit

allowed to the widows of PF beneficiaries was

extended to her from 1.1.86. OA 3012/91 was

filed by the applicant earlier in this Principal Bench and this OA was disposed of on 27.1.93 with

an order that the representation filed by the

applicant dated 2.5.91 should be dealt with within

two months from the date of receipt of the copy

of the order and a reasoned reply should be given.

In this representation dated 2.5.91 the applicant

had mainly referred to 4 similar cases where after

the retirement of the concerned employees the

benefit of coming over to the pension scheme

was extended. In pursuance to the orders passed

by this Tribunal a reply was given by the

respondents in their letter dated 20.9.93 addressed to the applicant (Annexure A-1). Among the four instances quoted in the application filed before the respondents by the applicant, in the case of three individuals the reply dated 20.9.93 clearly brings out that these individuals had opted for the pension scheme at the relevant point of time. With regard to the 4th case the reply reads as Under:-

"Shri Arjan, Pump Attendant". The individual was retired from service w.e.f 31.7.75 and was granted sup. pension at Rs.76 per month w.e.f 1.8.75 notified in this office PPO No. C/Eng/179/79. The service book of this individual is not available with head of office to enable us to verify the fact as to whether he had opted for joining pensionary scheme during his service period or after retirement as alleged in your representation. In case however, he had opted for joining pensionary scheme after the date of retirement without any authority/Govt. order in support, this office will review his case and cancel the award if necessary."

2. This DA has been filed for a direction to

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the respondents to grant pension in favour of late Shri Tej Bhan from the date of his retirement till his death and family pension to the applicant thereafter.

3. The applicant is not in a position to bring out any records to establish that her husband opted for the pension scheme. On the other hand the respondents have attached a copy of the option format dated 28.11.79 (Annexure 2 to reply at page 13 of the counter reply) to bring out that the applicant specifically opted to continue in the existing CPF scheme.

4. The learned counsel for the applicant mainly relied on the alleged discrimination vis a Singh, vis Shri Arjun Pump Attendant. It is her case that the reply dated 20.9.93 is not convincing and it is for the respondents to produce the records with reference to Shri Arjun Singh.

On this the learned counsel for the respondents again mentioned that the department has already admitted that the service book of Shri Arjun Singh is not available at this distant point of time and if the applicant can produce some records to show that some favour was given to Shri Arjun Singh the case of Shri Arjun Singh will be reviewed and pension scheme cancelled.

5. Having heard both the counsels I find that the main issue is that the applicant has not opted for the pension scheme is established. On the issue whether any favour was shown to some other employee, the respondents are not in a position to produce the record relating to the period 1975-79 and earlier with regard to Shri Arjun Singh. It is not very necessary to go into the case of Shri Arjun Singh, since what is relevant to this OA is the eligibility or otherwise of sanction of pension/family pension to the applicant's husband/applicant. Since exercise of option to come out of the CPF scheme has not been established the relief cannot be granted. Under the circumstances, the OA is dismissed. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)
Member (A)

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Section XIV
SUPREME COURT OF INDIA

NEW DELHI.
DATED:- 11/08/95

To:-

The Registrar
Supreme Court of India.
NEW DELHI.

To,
The Registrar
High Court of DELHI

Central Administrative Tribunal
New Delhi

PETITION FOR SPECIAL LEAVE TO APPEAL CIVIL No 122204-77/94

(Petition) under Article 136(1) of the constitution of India from
the Judgement and Order dated 30/05/94

of the High Court of Judicature at DELHI

In 2926/93, Off. 2526/93

JANAK DEVI

... PETITIONER(S)-

- vs -

C.I. & ORS.

... RESPONDENT(S)-

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I am directed to inform you that the petition above mentioned
filed in the Supreme Court was dismissed
by the Court on 04/01/95

Yours faithfully,

K. MOH 09/09/95
For Registrar

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