

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

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Allahabad : Dated this 31st day of August 1998

Original Application No. 1142 of 1996

District : Allahabad

CORAM:

Hon'ble Mr. S. K. Agrawal, J.M.

Smt. Jeevata Devi
w/o Late Sri Tuffani
R/o C/o Shri Musafir Prasad Singh,
114/9, Jawahar Nagar,
Naini, Allahabad.

(Sri Rakesh Veram, Advocate)

. Applicant

Versus

1. Union of India through Secretary,
Ministry of Defence, New Delhi.
2. The Commandant, 313, Company
ASC (Supply) Type 'F',
C/o 99 APO
3. Controller of Defence Account
(Pension) G(1) Section,
Allahabad.

(Sri SK Anwar, Advocate)

. Respondents

ORDER

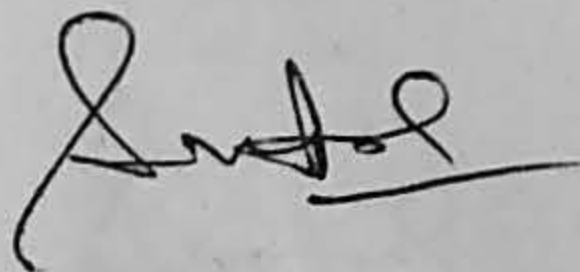
By Hon'ble Mr. S.K. Agrawal, J.M.

In this OA the applicant makes a prayer that the respondents be directed to grant benefit of the family pension to the petitioner after completing necessary formalities within the stipulated time.

2. In brief, the facts of the case as stated by the applicant are that the husband of the petitioner died on 11-11-1982, who was working as Majdoor and was posted at 313 Coy ASC (Supply) Type 'F' C/o 99 APO. It is submitted that while working as Majdoor the husband of the petitioner died on 11-11-1982 leaving behind his widow and son and during the life time the husband of the petitioner opted for family pension. The widow

of the petitioner was paid Rs.5690/- as fund but denied family pension. The petitioner made a representation to the respondent no.2 but with no result. It is submitted that the petitioner has been denied the benefit of family pension as the last pay certificate showed wrong entry which was sent to respondent no.3 by the respondent no.2. It is also submitted that the letter of the respondents goes to show that it was advised by respondent no.3 to respondent no.2 that if the deceased was not subscribing of General Provident Fund and the widow desires family pension, the Govt. contribution with interest already paid to her may be resumed from the widow to Government account. It is submitted that the deceased opted for family pension and GPF Scheme but only on account of lapses on the part of the respondent no.2 the petitioner has been denied the benefit of the aforesaid scheme. The petitioner is ready to deposit the Government contribution in pursuance of the Para 4 of the letter dated 10-7-1985 at Annexure-A-1. There is no lapse on the part of the petitioner and or her husband. Therefore, it is requested that the respondents may be directed to grant family pension to the applicant and be directed to pay the same within the stipulated period with interest.

3. CA was filed by the respondents. In the CA death of the deceased Tuffani was admitted as on 11-11-1982, and it was also admitted that the deceased employee opted for family pension and GPF and the same was intimated to the JCDA for the required change over, but before the change over could be completed, Tuffani died. It

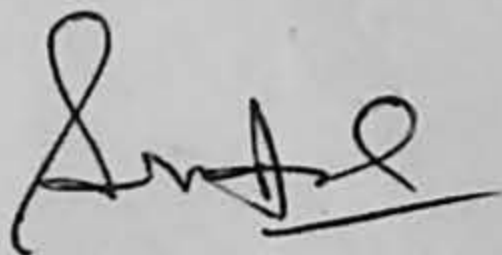


is stated that the applicant received fund after the death of Sri Tuffani and thereafter he submitted an application for family pension dated 20-10-1995. The applicant was entitled to receive ex gratia payment, which was neither denied nor rejected but is pending sanction by the office of respondent no.3 for want of requisites. It is denied that because of wrong entry in LFC, the applicant was denied family pension but it is stated that the deceased was not subscribing the contributory fund and was not brought on pension scheme till his death. The applicant took this stand over 10 years. Therefore, on the basis of the averments made in the counter, the respondents have requested to dismiss this OA with costs

4. A rejoinder affidavit was filed in which it was reiterated that the husband of the Deponent has opted for family pension scheme during his life time and thus the dependent is entitled to be given the benefit of family pension. It is also stated that the applicant never received ex gratia and right to get family pension of the applicant cannot be taken away on the technical ground of limitation. The supplementary rejoinder affidavit was also filed.

5. Heard learned counsel for the applicant as well respondents and perused the whole record carefully.

6. It is clear after the perusal of the pleadings that the deceased husband of the applicant opted for family pension and GPF during his life time and the applicant refused to accept the ex gratia. Tuffani expired on 11-11-1982 and during his life time he opted for family pension scheme and the same was intimated to the

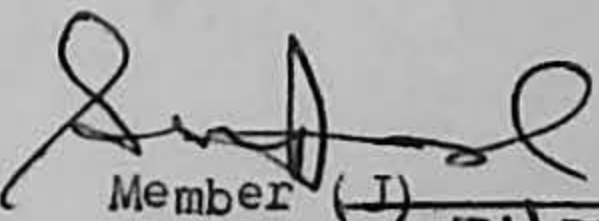


JCLA for required change over but before the change over could be completed, Tuffani died on 11-11-1982. It is also evident that the applicant is ready to refund the contribution of the Government with interest if family pension is granted to the applicant.

7. In view of the admitted facts, the applicant is entitled to family pension after the death of her husband.

8. Therefore, this OA is allowed with the direction that the applicant is entitled to family pension which shall be sanctioned as per rules, after the death of her husband on 11-11-1982. Arrears of family pension shall be payable after adjusting the Government contribution to GPF (including interest received by the applicant). The respondents shall complete the whole exercise within a period of three months from the date of receipt of the copy of this order.

9. There shall be no order as to costs.


Member (I) 31/8/88

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