

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(ALLAHABAD THIS THE 30th DAY OF APRIL, 2015)

Present

HON'BLE MS. JASMINE AHMED, MEMBER (J)

Original Application No.853 OF 2005
(U/S 19, Administrative Tribunal Act, 1985)

Sumitra Devi, widow of Late Daulat Singh,
Resident of Village Paniyali, Post Office-Katghariya, Haldwani,
District-Nainital (Uttaranchal).

.....Applicant

V E R S U S

1. Union of India through the Secretary, Ministry of Science and Technology, New Delhi.
2. Survey General, Survey of India, Hathbarkala Estate, Dehradun.
3. Dy. Survey General/Director, Survey of India, Hathbarkala Estate, Dehradun.
4. Pay and Accounts officer,
Central Pension and Accounting Office,
Ministry of Finance, Government of India,
Trikeet-II Complex, Behind Hotel Hyatt Regency,
Bhikaji Cama Place, New Delhi-66.

.....Respondents

Advocates for the Applicant:- Shri Ashish Srivastava

Advocate for the Respondents:- Shri Anil Dwivedi

Jasmine Ahmed

ALONGWITH

Original Application No.1608 OF 2012
(U/S 19, Administrative Tribunal Act, 1985)

Smt. Sumitra Devi @ Tara Devi, Widow of Late Daulat Singh,
Resident of Village-Paniyall, Post office-Katghariya, Haldwani.
District-Nainital (Uttaranchal).

.....Applicant

VERSUS

1. Union of India through the Secretary, Ministry of Science and Technology, New Delhi.
2. .Director Northern Printing Press, Survey of India, Hathbarkala, Dehradun.
3. Establishment and Account Officer, Survey of India, Hathbarkala Estate, Dehradun.
4. Pay and Accounts Officer, Central Pension and Accounting Office, Ministry of Finance, Government of India, Trikoot-II Complex, Behind Hotel Hyatt Regency, Bhikaji Cama Place, New Delhi-66.

.....Respondents

Advocates for the Applicant:- Shri Ashish Srivastava

Advocate for the Respondents:- Shri Anil Dwivedi

Jasvire Sharma

ORDER

(DELIVERED BY HON'BLE MS. JASMINE AHMED, MEMBER (J))

Shri Ashish Srivastava learned counsel for the applicant none for the respondents even in the revised call.

2. OA No. 853 of 2012 and 1608 of 2012 are heard together and passed a common judgment as both the O.As are related to the same applicant and reliefs claimed by these two OAs are co-related to each other.

3. The matter pertains to the year 2005 and the subject matter is family pension, hence I proceed to hear the matter under Rule 16 of CAT Procedure Rule.

4. By filing this Original Application No.853 of 2005 under section 19 of Central Administrative Tribunal Act, 1985 the applicant is seeking following reliefs:-

- (i) *to allow the original application and quash the impugned order dated 25.5.2005 passed by the respondent No.4, and order dated 4th May, 2005 passed by respondent No.3 (Annexure-1 and 2 to compilation-I) and further direct the respondents to pay the family pension regularly.*

Jasmine Ahmed

(ii) *To grant other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case beside costs and expenses of the original application.*

(iii) *To award cost of the petition in favour of the applicant."*

5. By filing this Original Application No.1608 of 2012 under section 19 of Central Administrative Tribunal Act, 1985 the applicant is seeking following reliefs:-

- i) *To allow the original application and quash the impugned order dated 20.9.2012 passed by the respondent no.3, and not to recover the amount already paid to applicant.*
- ii) *To grant any other order or direction as this Tribunal may deem fit and proper in the circumstances of the case decide costs and expenses of the original application.*
- iii) *To award cost of the petitioner in favour of the applicant.*

6. The factual matrix in brief is that the husband of the applicant died on 14.11.2000 in harness leaving behind the applicant, a minor son and four daughters. The counsel for the applicant states that after the death of husband the applicant was getting family pension but suddenly by impugned letter dated 25.5.2005 and 4.5.2005 the pension has been arbitrarily stopped which resulted filing of O.A no.853 of 2005 and by order dated 20.09.2012 respondents have ordered for recovery of already paid pension to the applicant which resulted in

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filing of OA No.1608 of 2012. The deceased husband of the applicant late Daulat Singh was employed as driver in the office of respondent No.3, before joining respondent No.3 the husband of the applicant late Daulat Singh was employed in the Assam Rifles at Shilong and after retirement from the Assam Rifles he was employed as Driver in the office of the respondent No.3. As the applicant was not getting the pension she filed O.A. No.46 of 2001, and a direction was given while disposing of the O.A. to respondent No.2 and 3 to arrange the family pension to the applicant immediately w.e.f. January, 2002 and arrears of salary be paid on or before 31.3.2002. The applicant submitted an application dated 4.12.2001 before the respondent No.3, after the order passed by the Tribunal, wherein she categorically furnished information as enquired by the respondents as to whether Sumitra Devi is also known as Tara Devi. It was stated in the information that she was given the nick name of Tara Devi by her husband after her marriage. After that the applicant also furnished indemnity bond on 31.12.2001 in which it was categorically stated that the name Tara Devi was given by her husband after her marriage. He also states that in the service record the name of the applicant was mentioned as Tara Devi @ Sumitra Devi and during the service period the husband of the applicant on 9.12.1981 declared by way of an Affidavit confirming the

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applicant is legally wedded wife of Daulat Singh. He drew my attention to page No.32 which is a letter dated 18.1.1994 written by the deceased to the respondent reads as under:-

“सेवा मे

स्थापना एवं लेखा अधिकारी
मनचित्र प्रकाशन

महोदय,

निवेदन इस प्रकार है कि मैंने भारतीय सर्वेक्षण विभाग में भर्ती होने के समय अपनी पत्नी का नाम तारा देवी उर्फ सुमित्रा देवी लिखाया था जो कि मेरी सेवा पत्रिका में दर्ज है। महोदय से मेरा निवेदन है कि मेरी पत्नी का नाम केवल सुमित्रा देवी ही अंकित किया जाय तथा तारा देवी का नाम काट दिया जाय।

कष्ट के लिए धन्यवाद।

भवदीय

दौलत सिंह
वाहन चालक
दि 018.1.1994”

7. He also states that in the service record also the name of the applicant also mentioned as Tara Devi @ Sumitra Devi and during the service period the late husband of the applicant declared by way of affidavit confirming that the applicant is legally wedded wife of Daulat Singh. He also contended that the family pension was also granted to the applicant after the decision of Hon'ble Tribunal by which already it has been decided that the applicant is the legally wedded wife of Late Daulat Singh. The counsel for the applicant states that only on the basis of a letter from one Tara Devi dated 6.10.2004

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stoppage of family pension to the applicant is highly illegal and arbitrary on the part of the respondents. He also states that the date of death in the complaint letter is wrongly mentioned as 13.11.2000 and also it is mentioned that the deceased was the pensioner who was getting pension from Survey of India through State Bank of India Haldwani Branch which is completely wrong as the deceased as Late Daulat Singh died while in service. He also contended that the death occurred on 14.11.2000 and the alleged complaint is made on 6.10.2005 which is after four years after the death of the deceased. He also drew my attention to Page No.39 of the O.A. where the said Tara Devi has mentioned the name of the applicant as Savitri Devi which shows that it was a fake attempt on her part to get the family pension illegally. The applicant also states that the claim of alleged Tara Devi by a certificate which was given by the Gram Panchayat Adhikari, Paniyali Haldwani is dated 10.9.2004 which is also after four years of death of the deceased. The counsel for the applicant states that as per the contention of the said Tara Devi dated 24.3.2005 she was married with the deceased 44 years ago, then why till 2004 she never approached the respondents to established her claim as a legally wedded wife. In this context he drew my attention to Page No.17 of Rejoinder which is a photograph of deceased Daulat Singh and Sumitra Devi and stated

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that everywhere the deceased Daulat Singh has mentioned the name of Sumitra Devi as his wife. It is stated by the counsel for the applicant that under Rule 53 of CCS (Pension) Rules a nominated person has right to receive the amount and family pension under Rule 54 of CCS (Pension) Rules and since the applicant, her son and daughters are the only legal heirs of the deceased Daulat Singh, hence, stopping of pension without any notice is highly illegal and arbitrary.

8. He also states that taking into consideration the nomination made by the deceased the applicant was getting family pension and even the daughter was given compassionate appointment. He also states that in the eventuality of the death of the deceased it cannot be proved about the genuinity of Tara Devi whether she is the legally wedded wife or not but the respondents should go by the declaration of the deceased wherein for every purpose he has mentioned the name of the applicant herein as a legally wedded wife and also given affidavit in that regard declaring the he has married to the applicant. He even drew my attention to Annexure CA-6 Page No.32 of the Counter Affidavit which is the details of family members of Daulat Singh as defined in Sub Para (ii) of Para 6 of Family pension scheme for Central Government Employees, 1964, wherein the name of Tara

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Devi @ Sumitra Devi is mentioned as wife and the declaration is made way back 10.10.1985 which is properly countersigned by the establishment and Account Officer dated 18.10.1985.

9. The counsel for the applicant placed reliance on the Full Bench judgment passed by this Tribunal in O.A. No.2372 of 1996 and O.A. No.1494 of 1999 (O.A. No.293/97/Jabalpur) which was decided on 25.2.2000 in the case of Ms. Geeta and Another Vs. Union of India & Ors. The Full Bench judgment states that the nomination in prescribed Form-6 giving details of the members of the family for the purpose of family pension has to be taken into account and the name which is given in the From-6 will be solely entitled for pension.

10. Counsel for the respondents has given his written argument. I perused from the Counter Affidavit filed by the respondents that the respondent has made an inquiry after getting a complaint from Tara Devi wherein the report reflects that late Daulat Singh was married twice and the applicant being the second wife and on the basis of that they have stopped the pension to the applicant. It is stated in the counter affidavit that if the first wife is alive then the second marriage

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for any government servant is illegal, Hence the applicant is not entitled for any pension or pensionary benefits.

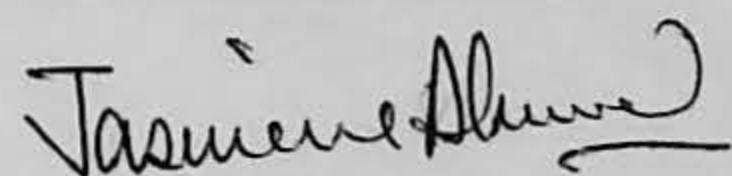
11. Heard the counsel for the applicant. Perused the pleadings on record as well as written argument filed by the respondents' counsel. As per the Full Bench judgment it is beyond doubt and dispute that in the prescribed Form-6 given details of family members of the family is entitled for the purpose of family pension scheme 1964. It is clear from all the documents that the deceased has given declaration and also nominated Sumitra Devi as his legally wedded wife and made her entitled for family pension by giving her name in the prescribed format of Form-6 and the declaration given in the Form-6 is dated 10.10.1985 and the deceased died on 14.10.2001 which is more than after fifteen years of declaration. It is clear from this act that the deceased wanted that entitlement of family pension for the applicant only, and the motive is very clear from all the documents that the deceased wanted Smt. Sumitra Devi to get the family pension in case of his death.

12. The alleged complaint of Tara Devi which states that they were married before 45 years and not taking any steps for such a long time to establish herself as a legally wedded wife as such having no sanctity

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and in the eventuality of the death of the deceased there is nobody to prove about the correctness of her statement whether the marriage was continuing or not and placing the name of Sumitra Devi in every documents during his service carrier the deceased clearly reflected his intention that the deceased wanted Sumitra Devi to get family pension as his wife. Accordingly, as per the Full Bench judgment the statement given in prescribed Form-6 giving details of members of family for the purpose of Family Pension Scheme 1964 in all purposes valid, and the respondents cannot just stop paying pension to the applicant.

13. Accordingly, the Original applications are allowed. The impugned order dated 25.5.2005 passed by respondent No.4 and order dated 4.5.2005 passed by respondent No.3 are quashed and set aside and the respondents are directed to release the family pension to the applicant. The order dated 20.09.2012 passed by respondent no.3 is also quashed and set aside and the respondents are directed not to recover any amount already paid to applicant. The order passed shall be complied with within three months from the date of receipt of certified copy of this order. No Costs.



[Jasmine Ahmed]

Member-J

/ns/