

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA**

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O A. No.350/990/2019

Date of order : 15.07.2021

Coram : Hon'ble Mr. Tarun Shridhar, Administrative Member

In the matter of:

Rabeya Banu, Daughter of late Md. Nurul Hossain, aged about 44 years, residing at 6, Jagir Ghat Road, Masjid Para, Post Office Thakurpukur, District – South 24 Parganas, Pin – 700063.

....Applicant.

-Versus-

1. The Union of India, service through the Secretary, Ministry of Defence, Government of India, having office at 101-A, South Block, New Delhi, Pin – 110011
2. The Chairman, Ordnance Factory Board, Kolkata, having office at 10A, Sahid Khudiram Bose Road, B.B.D. Bag, Kolkata-700001.
3. The Senior General Manager, Gun and Shell Factory, Cossipore, having office at Khagendra Chatterjee Road, C.I.T., Cossipore, Kolkata-700002.
4. The Joint Works Manager (Pension), Gun and Shell Factory, Cossipore, having office at Khagendra Chatterjee Road, C.I.T., Cossipore, Kolkata-700002.

....Respondents.

For the applicant : Mr. T. K. Biswas & Mr. S. K. Mukhopadhyay; counsel

For the respondents : Mr. R. Halder; counsel



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ORDER**Mr. Tarun Shridhar Member (A):**

The applicant Rabeya Bano, vide this original application, makes a claim for family pension being the divorced daughter of Late Md. Nurul Hossain, an ex-employee of Gun and Shell Factory, Cossipore, Kolkata – 700002.

2. For the sake of clarity the portion of the O.A. seeking relief is reproduced below verbatim:

"(a) An order directing the respondent authorities to pay and disburse the family pension of the applicant with effect from May 28, 2018 considering her as the divorced daughter of Late Md. Nurul Hossain, an ex-employee of Gun and Shell Factory, Cossipore, who died on May 27, 2018;

(b) To pay all arrear pensions to the applicant starting from May 28, 2018 till the date of disbursement along with cumulative interest @18% per annum with quarterly rests."

3. Brief facts of the case are that the applicant, who was married to one Md. Rafi in accordance with the Muslim Customary Law, got divorced in accordance with the Bengal Mohummadan Marriages and Divorces Registration Act, 1876 on January 2nd 1994.

4. Therefore, in accordance with the rules governing grant of family pension, she becomes entitled for the same on account of the death of her father. It is claimed on her behalf that other legal heirs have no objection to the grant of family pension in her favour.

5. I have given a patient and attentive hearing to the Ld. Counsels of the applicant and respondents. On the last hearing on 18.01.2021, I had made the following observation:



"The applicant seeks sanction of a family pension on account of her father, who was an employee of the Gun and Shell Factory, Cossipore, working directly under the Respondent No. 3 and 4. The present applicant, being the divorced daughter of the late employee, is the rightful claimant of family pension in accordance with law. Since her divorce was on account of the Talaq-E-Tafweez in accordance with the Muslim customs, this divorce has not been affirmed by any Civil Court although the Kazi, who is a Marriage officer in the Muslim custom, has issued this and certified the divorce.

The respondents have not rejected the claim of the applicant. However, they sought a decree from a Civil Court and informed the applicant that her claim would be closed in case such a document is not furnished.

Prima facie, it appears that the respondents have not examined this case in the right perspective since the matter has been pending since long and cause hardship to the divorce daughter.

Ld. counsel for the respondents submits that he has already filed reply but, somehow, it is not available on file.

Ld. counsel for the respondents to furnish copy of the reply to the ld. counsel for the applicant, who may submit their written argument, with liberty to the respondents to submit his set of argument after receipt of the argument submitted by the ld. counsel for the applicant, within 1 week thereafter.

Ld. counsel for the applicant assures that he will submit his written argument within a period of 1 week from today with copy duly served to the other side."

In accordance with the aforesaid directions, the Ld. Counsels have submitted the requisite documents which I have gone through carefully along with all the other documents on record.

6. To be fair to the respondents, they accept the legal entitlement of the applicant but, express helplessness in granting family pension in her favour on account of non-submission of sufficient documentary proof by her i.e. (a) she is legally divorced and, (b) she has not remarried since then. On the other hand, I also observe that the insistence of the respondents that she submit a decree of divorce from an appropriate Civil Court is not reasonable since marriage and divorce of the applicant are governed under the Muslim Personal Law and the Bengal Mohummadan Marriages and Divorces Registration Act, 1876.



Therefore, to this extent, respondents' action of denying her family pension is, *prima facie*, unreasonable. Being a divorcee single lady, she deserves greater empathy and compassion.

7. Accordingly, this O.A. is disposed of with a direction to the respondents to take a proactive approach and ascertain the facts of the applicant's divorce and her subsequent status of being a single lady by way of enquiry through their own officers.

8. The applicant is also accorded the opportunity and liberty to make a fresh representation and submit whatever additional evidence she can adduce in support of her claim.

9. It is expected that the respondents will pass a reasoned and speaking order taking a compassionate view of the matter. This matter shall be decided by the respondents, specifically respondent no. 3 and 4, within a period of 8 weeks from the date of receipt of this order.

10. The O.A stands disposed of accordingly with no order as to costs.

— Tarun Shridhar
(Tarun Shridhar)
Administrative Member

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