



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 1915/2021
(SWP No. 689/2016)

This the 9th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Anand Mathur, Member (A)**

Mst Taja (Age 50 Years)
W/o Late Ghulam Hassan Dar
R/o. Rawalpora, District Budgam

...Applicant

(Mr. Syed Manzaor Ahmad, Advocate)

Versus

1. State of Jammu and Kashmir through Development Commissioner (Power) J&K, Civil Secretariat Jammu/ Srinagar.
2. Chief Engineer, Electric, M& RE Wing, P.D.D Kashmir, Srinagar
3. Superintending Engineer, M& Re, Circle 11, Srinagar.
4. Executive Engineer, Electric Division 11, Srinagar.
5. Accountant General, J& K, Exhibition Road, Srinagar.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General for respondent Nos. 1 to 4 – Mr. Raghu Mehta, Senior CGSC for respondent No.5)



ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman:

Concisely, the facts of the case are that the husband of the applicant was working as Lineman in Power Development Department (PDD) and permanently disabled on 14.05.1994 while discharging his duty. He died on 01.12.1994 leaving behind the applicant, two sons and one daughter. The applicant came to be appointed on compassionate grounds as Class IV in terms of SRO 43 of 1994 and posted in Bagat, Sub Division. It is submitted that the applicant is entitled to family pension in terms of Article 249-M (A), Chapter XIX – A of Jammu & Kashmir Civil Services Regulations. It is also submitted that though she is entitled to *ex gratia* relief of Rs.1 lac, she has been granted only Rs.10,000/-. In this regard, the applicant made number of representations. When she did not receive any response, the applicant filed SWP No.689/2016 before the Hon'ble High Court of Jammu & Kashmir, seeking the following reliefs:-

“i) That a writ /direction /order particularly in the nature of Mandamus be issued against the respondents commanding upon them to grant the family pension including the children allowances which she is entitled to under Service rules, in favour



of the petitioner w.e.f. the date i.e., 14.05.1994 when the petitioner's husband Ghulam Hassan Dar, Lineman, in the line of duty became permanently disabled and ultimately died on 01.12.1994.

ii) The petitioner also be awarded the interest at the rate of 15% per annum for delay in granting the family pension and children allowances from the date of when she was actually entitled for the same and till it is actually paid to her.

iii) That the petitioner be awarded the costs of the Litigation as well;

iv) Any other writ/direction /order be issued which this Hon'ble Court deems just and proper in the circumstances of the case in favour of the petitioner and against the respondents.

2. *Per contra*, the respondent Nos.1 to 4 on the one hand and respondent No.5 on the other filed separate counter affidavits. Their main stand is that the applicant was appointed on compassionate grounds long back and that she has not applied for family pension after the death of her husband in the year 1994.

3. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.1915/2021.



4. Today, we heard Mr. Syed Manzoor Ahmad, learned counsel applicant, Mr. Sudesh Magotra, learned Deputy Advocate General for respondent Nos. 1 to 4 and Mr. Raghu Mehta, learned Senior Central Government Standing Counsel for respondent No.5.

5. At the outset, the respondents did not deny the fact that the applicant is legally entitled to receive the family pension, but since she has not applied for the same, it could not be granted to her.

6. If that is the view, we dispose of the T.A., directing the applicant to claim family pension, being the widow of an employee, within ten days from the date of receipt of a copy of this order. On receipt of the same, the respondents shall consider the case of the applicant for grant of family pension, in accordance with law and rules; and if she is otherwise entitled to it, the family pension shall be released to her, with retrospective effect, within three months thereafter. There shall be no order as to costs.

(Anand Mathur)
Member (A)

(Manjula Das)
Chairman

September 9, 2021
/sunil/jyoti/mk