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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 13th day of February 1996.

Original Application No. 1283 of 1988.

Hon'ble Mr. T.L. Verma, JM
Hon'ble Mr. D.S. Baweja, AM

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Bachhi Ram Nautiyal, S/o
late Sri Shankar Datt Nautiyal,
R/o 74/35, Rajpaur Road, opposite
Madhuban, Dehradun.

..... Applicant.

C/A Sri U.N. Khare

Verma

Union of India, New Delhi
through the Secretary, Depart-
ment of Post, M/o Communication,
Tar Bhawan, Parliament Street,
New Delhi. & oths.

..... Respondents.

C/R Sri N.B. Singh

O R D E R

Hon'ble Mr. D.S. Baweja, AM

This application has been filed praying reliefs of compassionate appointment, payment of interest on the delayed payment of settlement dues, and payment of family pension at the enhanced rates till the age of 25 years.

2. The applicant's father while working as a Packer in Dalanwala Post Office, Dehradun died on 22.3.58 after putting in about 27 years of service. The applicant was four years old when his father died. His mother had earlier died when he was just two months old. The applicant attained the age of majority i.e. 18 years in 1972. Since then he has been representing for payment of death cum

retirement gratuity (DCRG), payment of family pension and compassionate appointment. After protracted correspondence after almost 28 years of death of his father, the following payments were made to the applicant in 1986:

1. Family pension Rs. 3600/- @ Rs. 30/- per month from 23.2.58 to 22.3.68.
2. Death cum retirement gratuity (DCRG) of Rs. 472.50 (amount wrongly mentioned as Rs. 4725/- by the applicant).

3. In the application and during hearing the learned counsel for the applicant laid stress on the following averments in support of the reliefs prayed for :

- (a) On attaining the age of majority in 1972, the applicant has made several representations for compassionate appointment but the same has not been given.
- (b) The applicant has been also representing for the payment of the settlement dues since 1972 on attaining the age of majority, but the payment has been made only in 1986. Therefore the applicant is entitled for the payment of the interest to compensate for this delay in the payment from the period of 1972 to 1986 at the rate of 10 per cent.
- (c) Family pension has been paid up to the age of 18 years only at the rate of Rs. 30 per month. In terms of Supreme Court judgement dated 30.4.1985 in writ petition No. 5780-93/81, 13181/84 with Civil Appeal No. 2225/85 wherein 1964 family pension scheme has been given retrospective effect. This is also clear from the communication dated 18.7.85 at Annexure 27 from Director General Department of Post in New Delhi wherein OM No.1 (II)/85 - Pension Unit dated 18.6.85 from M/o Personnel & Training directing the implementation of Supreme Court judgement cited above has been circulated. In view of these instructions the applicant is entitled for the payment at the rate of Rs. 60 per month till the age of 25 years.

4. The respondents in the counter have averred that the application was made for compassionate appointment on 28.5.72. This request was considered by the competent authority as per the extant rules applicable at that time and the same was rejected. The applicant was also advised of the same vide letter dated 28.9.76. Having rejected his claim in 1976 and also informing the applicant, making

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repeated representations subsequently and any reply to his representation can not bring the applicant within the limitation prescribed for filing application under Section 21 of the Administrative Tribunal Act 1985. Therefore, the application for the relief of compassionate appointment is highly time barred.

As regards the family pension the respondents have submitted that the pension has been authorised under rule 5 (1 & 2) of Liberlised Pension Rules and Government of India decision dated 22.5.67⁵, the family pension is admissible only up to the age of majority i.e. 18 years as per the circular dated 21.10.64 which has been annexed as CA-2. The enhanced rate of family pension was introduced in 1966 only and therefore the provisions averred by the applicant will not be applicable. Further in terms of the Supreme Court judgement referred to by the applicant the benefits of Family Pension Scheme of 1964 has^{re} been made effectⁱⁿ⁻² from^{from} 22.9.77. Therefore, the decision of the Supreme Court judgement will not apply in case of the applicant.

For the delayed payment of the settlement dues and the family pension no reason has been advanced in the counter.

5. Heard the learned counsel for the applicant and the respondents. The counter affidavit by the respondents and the rejoinder to the same have been filed. We have also carefully considered the material placed on record.

6. Taking up firstly the issue of compassionate appointment, we find from the averments made by the respondents that representation for compassionate appointment had been considered and the same was rejected, and the applicant was also advised vide letter dated 28.6.76. The compassionate appointment was not admissible as per the extant rules applicable at that time.

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applicable at the time of death of applicant's father. However, inspite of this advise of rejection, the applicant kept representing for the compassionate appointment. The purpose of the compassionate appointment is to mitigate the hardship due to death of the bread winner in the family. Such appointment should therefore be provided immediately to redeem the family in distress. The law with regard to consideration of the compassionate appointment has been laid down by the Hon'ble Supreme Court in the judgement Umesh Kumar Nagpal Vs. U.O.I. (1994) 4 SCC 138. Keeping these in view, we are therefore in agreement with the contention of the respondents that the claim of the compassionate appointment is highly time barred and there is no merit in the same.

As regards delay in the payment of the family pension and the DCRG, the respondents during the hearing made a submission that the payments were not made as the applicant did not apply for the same. In the counter no averment has been made as to why the payment was delayed and what are the extant rules for making the settlement dues and family pension after the death of the employee and whether the dependent are required to apply for the same. Referring Rule 77 of 'CCS Pension Rules', it is laid down that in the event of the death of the employee, on receipt of this information, the Head of the office will determine whether family pension & DCRG are admissible and if it is so, then the Head of the office will address the person concerned in form 10 or 11 as may be appropriate for making the claim in Form 12. There is no submission made in the counter whether this action was taken by the respondents. During the hearing, the respondents however, pleaded that the applicant made representation only in 1985, and payments were arranged in Jan. 1986 thereafter. We are unable to accept this contention

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of the respondents, in view of the clear extant rules laid down. The applicant has been deprived of the settlement dues and the pension and therefore deserves to be compensated for delay by way of payment of interest at the rate of 10% for the period from 1972 till payment made in January 1986.

For the claim of the payment of family pension till the age of 25 years at the enhanced rate of Rs. 60/- per month the respondents have averred that the same is not admissible as per the extant rules applicable. The applicant has relied on the Ministry of Personnel and Training's office memorandum dated 18.6.85. Which has been issued with reference to Supreme Court judgement dated 30.4.1985.

We have carefully gone into CCS Pension Rules and the circular linked up by the respondents with regard to non admissibility of this relief. Sub Rule 6 (ii) of Rule 54 of CCA Pension Rules, has been amended for the eligibility age of the sons for family pensions increasing it to 25 years from 21 years vide O.M. No. 1/2/86-P & PW dated 6.8.87 effective from 6.8.87. The age was earlier raised from 18 years to 21 years vide office memorandum dated 29.3.78 wherein it is stipulated that it will be not applicable to those who have crossed the age of 18 years on 29.3.78. Further the office memorandum dated 21.10.64 at CA-2 clearly lays down entitlement upto the age of 18 years only. In view of these rules, the applicant who completed 18 years in 1972 is not entitled family pension upto the age of 25 years.

Further as per the office memorandum dated 18.6.85 issued subsequent to Supreme Court judgement, Supreme Court has delivered judgement extending from 22.9.1977 the benefits of Family Pension Scheme 1964 to the families of those

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ernment employees who retired/died before 31.12.1963.

the decision of Hon'ble Supreme Court will not be applicable in the present case. The contention of the applicant is therefore not tenable and, we agree with the submission made by the respondents.

7. Considering the above facts, the application is partly allowed with regard to relief for the payment of the interest on the delayed payment of pension and DCRG, with the directions to pay interest at the rate of 10 % both on the pension as well as DCRG from 1972 (1.1.1972) till Jan. 1986. The compliance will be done within a period of 3 months from the date of judgement. No order as to costs.

S. B. Singh
Member - A

J. H. Verma
Member - J