

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad This ^{26th} Day of May, 2000

Original Application No. 892 of 1999

CORAM:

Hon'ble Mr. S. Biswas, A.M.

Smt. Girja Devi, Widow of Late Bangali

Babu ex- chowkidar Ganj Dundwara Post Office,

aged about 60 years, C/o Shri Raj Kumar Gupta,

Gupta Medical Stores, Nagla-beeh, Ferozabad (U.P.)

.....Applicant

(By Adv: Sri A.B.L. Srivastava)

Versus

1- Union of India through The Secretary to Govt.

of India, Department of Post and Director General

Post, Dak Bhawan, Sansad Marg, New Delhi.

2- The Post Master General, Agra Region,

Agra (U.P.)

3- The Director Of Postal Accounts,

U.P. Circle, Lucknow.

4- The Superintendent Post Office,

Etah Division, Etah (U.P.)

.....Respondents

(By Adv: Kum. S. Srivastava)

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(By Hon'ble Mr. S. Biswas, A.M.)

The applicant is the widow of Late Bangali Babu, a contingency Paid Chowkidar at Ganjdundwara Post Office (Etah). He served in that capacity from 1973. He expired while in service on 24-4-93. The applicant, the widow of Sri Bangali Babu, seeks that the letter dated 24-2-99 of Respondent No. 3, which refers to the letter dated 4-3-99 of respondent No. 4, stopping the Family Pension sanctioned under order dated 18-10-93 be quashed and the Family Pension be ordered to be resumed and paid to her.

2- Heard the counsels of both the parties. The facts of the case which have emerged through the submissions of the rival parties are as under.

3- Late Bangali Babu expired on 24-4-93, when he was a contingency Paid Chowkidar, working at Ganjdundwara Post Office (Etah) since 1973. The applicant being the legally married widow, was sanctioned provisional Family Pension and Gratuity by the respondent No. 4 vide this sanction order dated 18-10-93. Subsequently, a provisional ~~25-4-93 to 24-10-93~~ Provisional gratuity of Rs. 4,216 was also granted by Superintendent of Post Office.

4- The applicant's husband has been referred in Departmental Correspondence dated 5-7-95 by Inspector Of Post Office, Jila Forum that said Bangali Babu was given Temporary status and became eligible for bonus of Rs. 1,270/=

5- The applicant's counsel has contended that the order of stoppage of payment of family pension vide letter dated 24-2-99 and 4-3-99 respectively of respondent No. 3 and 4 were issued without observing the principles of natural justice. Hence the same is liable to ^{be} quashed. S. R.

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He has cited the following supporting case laws :

(a) Supreme Court in Prabhawati Devi vs. U.O.I. decided on 16-11-95 reported in U.P. Local Bodies and educational cases 1996 (i) S.C.-40.

(b) Apex Court order in Director E.S.I. Scheme Vs. Sabita Mohanty in SLP (C) No. 15023-24 A of 1993 decided on 2-9-91 relying upon the judgment of House of Lords reported in 1943-SC-267 (1943 (2) A.L.L. E.R. ATJ -1998 (1)).

(c) Ahmedabad Bench of C.A.T. in Smt. Ehaniben Bav Vs. U.O.I. and Than Singh vs. Municipal Corporation (Delhi High Court)

(d) In Lucknow Bench, C.A.T., M.N.S. Balasubramaniam vs. Union Of India.

6- The counsel for the respondents states that late Bangali Babu was only a contingency paid Chowkidar from 1973 to 1993. Hence, his widow was not eligible for family pension. In accordance with the D.G. Post communication dt. 12-4-91, the temporary status would be conferred on the Casual Labourers in employment as on 29-11-89 on rendering continuous service of at least one year. It is, however, not denied that Late Bangali Babu was given temporary status but temporary status does not automatically confer on a Group 'D' employee, the status of a regular employee. In other words, Sri Bangali Babu was not regularised, when he expired.

7- In the circular of D.G. dt. 30-11-92 under para 3(3) temporary employee becomes eligible for pension and retirement benefits. In this connection vide order of D.G. Posts communication dt. 22-8-97 regarding admissibility of family/pension/death gratuity was clarified that no family pension and death-cum-retirement benefit will be admissible to temporary status Group 'D' unless he has been regularised. Since Late Bangali Babu was not

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regularised as Group 'D' employee at the time of his death, the family pension order was cancelled vide order dt. 24-2-99.

8- In the first place, the respondents have not clarified when Late Bangali Babu was accorded temporary status. It is clear that for 20 years the applicant could not have continuously worked without being eligible for regularisation as he was admittedly temporary status holder after 220 days but he was allowed to continue as such without formal regularisation. The relevant order for regularisation is also dt. 29-11-89, ³ if he would have been regularised then also, as he was only a chowkidar, he would be a fully eligible employee for pension and family pension at the time of his death. The default for regularisation, if any, is on the part of the respondents. The argument to deny his widow family pension benefit for their own fault is illegal and not tenable.

9- It is observed in this connection that the respondents have treated the case as a normal eligible family pension case and provisional family pension and gratuity were sanctioned ^{As} per the Annexure (CA-2) submitted by respondents ⁵³ where direction was given how the judgment of the Supreme Court dt. 29-11-89 was to be implemented. Therefore temporary status and temporary employees are one ^{and} of the same. Consequently the benefits were wrongly stopped to the ⁵³ applicant.

10- The family pension to the applicant was withdrawn after receipt of D.4. posts communication dt. 22-8-97 whereas the family pension was granted on 19-10-93. A sanction dt. 18-10-93 cannot be withdrawn by virtue of clarification dt. 22-8-97 without giving

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incumbent show cause as per the principles of natural justice. There is catena of judicial pronouncement, on the question of observance of principles of natural justice, before denying any legal rights to the applicant. This is not an inheritance but right. The family pension can not be withheld without observing the principles of natural justice.

11- It is admitted fact that the authorities cancelled the order of the year 1993 by virtue of ^{a letter} 1997_h without giving the applicant an opportunity to show cause. Consequently, the order dt. 24-2-99 of respondents No. 3 read with letter dt. 4-3-99 of respondent No. 4 are illegal and hence quashed with direction to resume payment of the family pension as due to the applicant as per rules with the arrears. An 11% interest be paid on the arrears from the date, ~~there~~ payments had become due.

12- No costs.

S. P.
A.M.

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