

Order dated 24.9.2001

In this Original Application the petitioner has prayed for a direction to Respondent No.2 to pay the arrear and current family pension till he attains the age of 25, along with 18% interest w.e.f. 7.4.2000, when according to him, applicant No.2 submitted all the necessary documents to the departmental authorities praying for family pension. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. The case of the applicant is that he is the adopted son of one Raghunath Das, who retired on superannuation on 30.6.1991 as Sorter-cum-Packer, under the respondents. The father of the applicant was sanctioned pension which he enjoyed till his death on 7.5.1997. Shri Raghunath Das, in his pension papers mentioned his wife Satyabhama Das as the sole legal heir, who expired on 17.8.1993. Respondents have stated that they have received application from the petitioner and had asked him to furnish all the necessary documents. The applicant submitted the legal heir certificate from the Late Tahasildar showing that he is the adopted son of LRaghunath Das. As the fact of adoption of the applicant by late Raghunath Das cannot be established merely on the basis of the legal heir certificate, more so in the absence of any nomination of the deceased Govt. servant showing the applicant as his adopted son, the applicant was advised after the respondents received Lawyers notice to take action under Rule-81. It is for the applicant to establish ~~that~~ before the appropriate Court of Law that he is the adopted son of Late Raghunath Das by making the respondents as parties. As he has not done so, he is not entitled to any direction as prayed for in this O.A. Moreover the prayer has to be rejected on another ground also. Applicant's is prayer for direction to Respondent No.2 to sanction pension. Res. No.2 is the Senior Accounts Officer, which does not sanction pension. As the applicant's father retired as Sorter-cum-Packer, if at all the applicant is entitled

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to family pension, it has to be sanctioned by the pension sanctioning authority. Applicant in the O.A. has made no averment as to who is the pension sanctioning authority/ who had sanctioned pension in favour of his father and/or whether he has made the pension sanctioning authority as a party. We also note that in the O.A. the petitioner has made no averment as to when he was adopted by the deceased Govt. employee. In view of this, we hold that the applicant is not entitled to any relief as prayed for in this O.A., which is accordingly rejected, but without any costs.

While rejecting the O.A., we however, make it clear that it is open for the applicant to take action under Rule-81 to be processed further by the pension sanctioning authority.

This order has been passed after hearing Shri S.B. Jena, learned Addl. Standing Counsel for the respondents. As none appeared for the applicant when the matter was called and this being a matter relating to pension wheree pleadings have been completed long ago, we did not feel it proper to drag the matter indefinitely, moreso when no request has ~~there~~ been made on behalf of the learned counsel for the applicant seeking adjournment.

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MEMBER (JUDICIAL)

Venkateshwaran
VICE-CHAIRMAN
24.9.2001

Free copies of
final order
dt. 24.9.01 issued
to counsel for
both sides.
BMS
S. S. (S)

25/9/01