

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

1) m. a. 589/ay without  
objections for  
amendment.

2) Addl. Counter  
filed. Copy served.

Bench

My  
10/11/04

Order dated 11.11.2004

Heard Dr. M. R. Panda, learned counsel for the applicant and Shri J. K. Nayak, learned Addl. Standing Counsel appearing on behalf of the Respondents, and perused the materials available on record.

Applicant (Shri Lachhman Barik) father of Jogendra Barik, deceased employee of Central Poultry Breeding Firm, Bhubaneswar had filed this O.A. claiming family pension, being the legal heir/father of the deceased employee. The Respondents had opposed the O.A. by stating in their counter that according to Appendix-5 to Rule-10 of CCS (Pension) Rules, gratuity equal to one month's pay is only payable to the family of a deceased Govt. servant, who dies as bachelor and the parents <sup>of</sup> ~~as~~ the applicant in this case are not entitled to family pension as they do not come within the definition of family. However, in course of hearing of the matter, learned Addl. Standing Counsel Shri Nayak had sought permission to file an additional counter on behalf of the Respondents and he was allowed to do so. By virtue of additional counter filed on 8.11.04, the Respondents have disclosed that on the recommendations of the 5th Pay Commission with regard payment of pensionary benefits to the Government servant, the Govt. has amended the rules regarding grant of family pension making parents/younger brother eligible for pension in case of Government servant, who dies as bachelor. It is further laid down in the said

Govt. circular dated 21.7.1999 as quoted in the additional counter that parents who are wholly dependants on the deceased Govt. servant when he/she was alive will be entitled to family pension with effect from 1.1.1998, subject to fulfilment of certain conditions. <sup>also</sup> Inter alia, it has been laid down that the family pension wherever admissible to the <sup>family</sup> parents, the mother will receive the pension and after her death, the father will receive family pension. A copy of additional counter has been served on the applicant. It is in this background, the learned counsel for the applicant has filed a Misc. Application 844/04 under sub-rule 5(a) of Rule 4 of C.A.T. (Procedure Rules, 1987, seeking amendment to the O.A. in order to implead the mother of the deceased Govt. employee as one of the applicants.

We have heard the learned counsel of both the sides on this M.A. We however, find that the Respondents have already considered the matter on their own by bringing to our notice a copy of the Govt. order entitling the parents of the deceased Govt. servant to family pension with effect from 1.1.1998. In the circumstances, we do not see any feasible ground to allow the M.A. impleading the mother of the deceased Govt. servant as one of the applicants, as in the process it would unnecessary prolong the matter. In this view of the matter, we are of the considered view that the ends of justice would be met if this O.A. is disposed

9  
with a direction that the Respondents are at liberty to settle the claim/entitlement of family pension of the parents of the deceased Govt. servant, viz. Late Jogendra Barik, in terms of Govt. of India O.M. dated 21.7.1999 subject to fulfilment of the conditions as have been laid down by the Government.

Copy of order  
of 11/11/04 issued  
to the counsel for  
both side.  
S.D. Mahapatra  
My  
Tajulay

The parents of the deceased Govt. servant, will nodoubt, on their own <sup>initiative</sup> ~~initially~~ file the necessary application with necessary documentations for grant of family pension. We hope and trust that the Respondents will take necessary steps expeditiously to settle the claim.

With the above observation and direction, this O.A. (along with M.A.844/04) is disposed of. No costs.

MEMBER(JUDICIAL)

VICE-CHAIRMAN