

28

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

Original Application No.260/01052 of 2014
Cuttack, this the 19th day of August, 2016

N. KhatunApplicant

-Versus-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? No
2. Whether it be referred to PB for circulation? No


(R.C. MISRA)
MEMBER(A)

29

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 260/01052 of 2014
Cuttack this the 19th day of August, 2016

CORAM
HON'BLE SHRI R.C.MISRA, MEMBER(A)

Nasima Khatun aged about 32 years D/o Late Sh. Saidu Khan at Dhanipur, PO Tarikund, PS/Distt. Jagatsinghpur.

...Applicant

By the Advocate(s)- Mr. S.A.Nayeem

-VERSUS-

- 1- Union of India represented through its Comptroller & Auditor General of India, Pocket-9, Deendayal Upadhaya Marg, New Delhi – 24.
- 2- Principal Accountant General (A&E), Indian Audit & Accountant Department, Treasury Building, 2, Government Place, West Kolkata – 700 001.
- 3- Accountant General (A&E), Odisha, At/PO/PS Bhubaneswar, Dist. Khurda, Odisha.
- 4- Treasury Officer, District Treasury, Jagatsinghpur, PO/PS/Dist.Jagatsinghpur.

...Respondents

By the Advocate(s)-Mr.S.K.Patra & Mr. J.Pal

ORDER

PER R. C. MISRA :

The applicant in this OA claims to be adopted daughter of one late Sh. Saidu Khan, who was working as Record Keeper in the office of Accountant General (A&E), West Bengal and while continuing in the post, had expired on 08.04.1964. After death of Sh. Saidu Khan the wife Mofi Bibi drew the service benefits including family pension, but she also has expired on 15.03.2000. In the background of the above facts, the present applicant has approached this Tribunal with the prayer that Family Pension in respect of deceased government employee Sh. Saidu Khan, may be sanctioned in her favour and the order passed by respondent No. 2 on 14.02.2014 placed Annex.A/11, may be quashed and set aside.

2. The applicant has claimed that late Sh. Saidu Khan during his life time has made a declaration to adopt her as his daughter since he had no children. He made a Declaration to that effect which is an authenticated document. A copy of the Deed of



Declaration has been filed by applicant as Annex.A/1. Smt. Mofi Bibi, the widow of Sh. Saidu Khan also made a declaration that she has adopted applicant as her daughter and she will enjoy the benefits of all her property without any obstruction from any other party. In the School Leaving Certificate, Voter ID issued by the Election Commission of India and also in the Aadhar Card, the applicant has been shown as 'Daughter of the deceased employee'. After mother of the applicant expired, all outstanding dues payable to her towards family pension was also paid to present applicant being a legal heir and to this effect, a letter dated 24.09.2013 (Annex.A/7) issued by the Treasury Officer, Jagatsinghpur has been enclosed to this O.A. She made several representations to respondents to allow her to draw Family Pension being physically handicapped and unmarried being the sole legal heir of the deceased government servant after the death of her mother. The representations so made did not yield any result and, therefore, applicant had approached this Tribunal earlier in OA No. 398/2013. The said OA was disposed of by this Tribunal vide order dated 01.07.2013 in which a direction was issued to the applicant to submit documents required for claim of family pension to the respondent authorities and a further direction was also issued to respondent No. 2 to consider the claim on the basis of these documents and communicate the decision to the applicant in a reasoned and speaking order. The respondent-authorities in obedience to the direction of this Tribunal, considered the matter and communicated their decision to the applicant by a reasoned and speaking order dated 24.02.2014. The decision of the respondent-authority was that the claim of the applicant for being eligible for family pension as adopted daughter of the deceased employee was rejected. In view of this order of rejection, the applicant has again approached this Tribunal in a second round of litigation making the prayer as already mentioned above.



3. The respondents have filed a counter affidavit defending the speaking order dated 14.02.2014 mainly relying upon Rule 54 of the CCS (Pension) Rules. They have submitted that as per Rule 54 of the CCS (Pension) Rules, the son and daughter adopted legally are eligible for family pension. In the instant case, however, there is no legal adoption deed as a proof that applicant is the legally adopted daughter of late Sh. Saidu Khan. The document annexed in the O.A. under Annex.A/1 relates to the declaration of Late Sh. Saidu Khan dated 06.01.1964 having no 'Issue' authorizing his wife Mofi Bibi to take either a male or a female child from any of her relatives to look after her and also to take care of their property. The Deed of declaration dated 22.10.1999 under Annex.A/2 made before the Notary Public, Jagatsinghpur by Smt. Mofi Bibi reveals that it is only a declaration to the effect that the applicant will be the inheritor of all the movable and immovable properties of Late Sh. Saidu Khan and his wife Late Smt. Mofi Bibi. The other documents and particulars as annexed to Annexes. A/3 to A/8, such as, School Leaving Certificate, Voter ID, Aadhar Card, Copy of Voter List, Receipts showing drawal of family pension and copy of the ROR in respect of the applicant cannot be considered as documents in support of the legal adoption of the present applicant. It is further submitted by the respondents in the counter affidavit that in obedience to the direction issued by this Tribunal in OA No. 398/2013 filed by the applicant earlier, a reasoned and speaking order dated 14.02.2014 has been communicated to the applicant. It has been reiterated that in absence of any valid adoption deed in favour of applicant the legal heir certificate issued by the Tehsildar, Jagatsinghpur declaring the applicant as adopted daughter ^{and} ^{as} legal heir of Mofi Bibi for the purpose of pension is not covered under the pension rules. As such, claim of applicant could not be entertained by the authorities.



4. Having heard learned counsel for applicant and respondents, I have also perused the records.
5. The learned counsel for applicant has vehemently pleaded that from a perusal of all documents produced by applicant it is amply proved that applicant is adopted daughter of deceased government servant and after death of widow of government servant, she being the adopted daughter, is eligible to get family pension. The respondents have also disbursed outstanding accrued family pension of Mofi Bibi to her recognizing her as legal heir. When all records are in favour of applicant, the respondents should not have rejected the claim regarding her eligibility to receive family pension. The learned counsel has however candidly admitted that declaration made by parents of applicant is strictly speaking not a registered deed of adoption but, his argument was that when all other documents are clearly reflecting status of applicant as the adopted daughter and legal heir, no further doubt should be entertained regarding the status of applicant as adopted daughter.

On the other hand, the main plank of argument of learned counsel for respondents is that the declaration filed in this OA, is not a Registered Deed of Adoption and, therefore, under the relevant Rules, the same cannot become a basis of valid adoption for sanction of family pension in favour of the applicant.

6. The Tribunal is, therefore, confronted with a situation where even though applicant has produced many documents with regard to facilities that she already enjoys as adopted daughter of late government servant, as claimed by her, the most important legal document i.e. registered deed of adoption and a succession certificate of a competent court, is missing. The sanction of family pension cannot be done in violation of the rules as mentioned under the CCS (Pension) Rules. The competent authority will have to act under the appropriate provision of the rules while

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considering such a prayer. Even though, learned counsel for applicant has earnestly pleaded that entire facts and circumstances should be taken into consideration by this Tribunal to declare applicant as eligible for family pension, but, needless to say, this Tribunal has no power to judge eligibility unless it is established that applicant has produced the registered adoption deed as required under the Rules. In the absence of valid documents as proof of adoption of applicant by the late government servant, no direction can be issued by this Tribunal for release of family pension in her favour. The impugned speaking order issued by the respondents on 14.02.2014 at Annex.A/11 cannot be faulted on any of the grounds advanced by the applicant.

7. In view of above, the O.A. being devoid of merit, is dismissed with no order as to costs.



(R.C.MISRA)
Member(A)

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