

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

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Date of Order : 26.05.2003.

O.A. NO. 94/2002

Naresh Chand S/o Shri Dheer Singh Ji, aged about 45 years, Resident of 10 Shishak Colony, Chopasni School, Jodhpur (Rajasthan). Husband of Late Smt. Suman Chouhan (Expired on 18th June, 1995), P.R.T., Kendriya Vidhayalaya, B.S.F., Jodhpur (Rajasthan).

.....Applicant.

versus

1. Union of India through the Secretary, Ministry of Human Resources Development (HRD), New Delhi.
2. Commissioner, Kendriya Vidhayalaya Sangathan, New Mehrauli Road, New Delhi.
3. Assistant Commissioner, Kendriya Vidhayalaya Sangathan, Regional Office, 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur (Rajasthan).
4. Principal, Kendriya Vidhayalaya, B.S.F., Jodhpur (Rajasthan).

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman
Hon'ble Mr. G.C. Srivastava, Adm. Member

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Mr. S.K. Malik, counsel for the applicant.
Mr. K.K. Shah, counsel for the respondents.

[Signature]

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ORDER

PER MR. JUSTICE G.L.GUPTA :

Applicant is the husband of Late Smt. Suman Chauhan, who died on 18.6.1995 while in service. Smt. Suman Chauhan, had left two minor daughters Ku. Khushbu and Ku. Sugandhika besides the applicant. After obtaining a death certificate, the applicant prayed for the grant of terminal benefits and the family pension. It is averred that after number of request letters and reminders, the applicant has been paid the amount of the G.P.F., N.I.L.S., Insurance, Medical Claim, Bonus and due salary of Smt. Suman Chauhan.

2. The grievance of the applicant is that the payment of the various sums was made after much delay. His further grievance is that having contacted second marriage he prayed the respondents to grant family pension in favour of his elder daughter Ku. Khushbu w.e.f. 16.4.1998 but, it has not been done as yet. It is also the say of the applicant that the T.A. claim of Rs. 8398/- for the journey undertaken by the family of the deceased Government servant has not been paid by the respondents. He prays for interest on all the sums which have been paid with delay, and on the sums which are to be paid to him or his daughter.

3. In the reply, the respondents' case is that the deceased employee had not left nomination in favour of any person and, therefore, some time was taken in the payment of the various sums. It is stated that the applicant and his daughters did not undertake the journey and, therefore, they were not entitled to the T.A. claim. It is also the case for the respondents that the required documents were not submitted by the applicant and, therefore, the family pension could not be paid.



4. In the rejoinder, the applicant has reiterated the facts stated in the O.A. As regards the journey, it has been stated that the applicant ^{and} his daughter had undertaken the journey from Jodhpur to native place and claimed the LTC as per rules.

5. We have heard the learned counsel for the parties and perused the documents placed on record.

6. Today, Naresh Chand, the applicant, has filed an affidavit stating that on his contacting second marriage on 17.4.1998 after the death of his first wife, he had requested the respondents that the family pension be released in favour of his daughter Ku. Khushbu. It is further stated in the affidavit that he has already submitted all the relevant papers on 6.7.1998.

7. It may be pointed out that earlier the application was filed by applicant Naresh Chand and his two daughters, but, pursuant to the order passed by this Court on 19.2.2003, the applicant has filed the amended cause title stating only his name on the application.

7.1. The learned counsel for the respondents contends that Naresh Chand, is not entitled to the family pension and, therefore, this application as such is not maintainable. The learned counsel for the applicant on the other hand, contends that the family pension is to be paid to Ku. Khushbu but, as other claims were also included, the O.A. was filed by all the three legal representatives of the deceased employee. He says that now, the application may be treated as the application of Naresh Chand as guardian of Ku. Khushbu.

7.2. If, we enter into the technicalities there will be further



delay. After Naresh Chand has remarried, Ku. Khushbu, is entitled to the family pension. Since Ku. Khushbu is minor, this application is treated on her behalf by Naresh Chand, as her natural guardian.

8. The first question to be considered is, whether, the applicant is entitled to the T.A. Under SR 148 a competent authority may grant to the family of a Government servant who died while in service such as TA as it deems fit. In the Instructions, it is provided that besides the amount of Travelling Expenses, the amount spent in transporting the personal effects of the deceased employee can be paid. It is further stated that the claimant must submit the proof of the actual expenditure incurred in that respect.

8.1. It is seen that in the O.A., the applicant did not state in so many words that journey was undertaken by the family to the home-town after the death of the deceased employee. A vague averment has been made at Para 4.8 that applicant had submitted the TA Bills amounting to Rs. 8398/- for the journey undertaken by him along with the daughters from Jodhpur to home-town i.e. Bhadra Bad District Sharanpur (UP), but, the payment has not been paid. In this para, the particulars of the journey or of the transportation of the personal effects are not stated. The respondents in the reply stated that no proof of journey was submitted by the applicant. In the rejoinder, the applicant has come out with the case that he had submitted the proof of the journey of L.T.C. It cannot be to be a case of L.T.C. There is some confusion. The pleadings are not clear.

8.2. The matter of grant of T.A. cannot be decided by this Court without sufficient material. When the applicant has not



come out with the clear case in the O.A., we think it proper to direct the respondents to consider the claim of the applicant about the T.A. under S.R. 146 and then pass appropriate order within a fixed time limit.

9. There cannot be any dispute as to the right of the family pension of Ku. Khushbu, who is the elder daughter of the deceased. Admittedly, family pension has not been paid to her as yet. The applicant had intimated the respondents vide communication dated 6.7.1998 that he had contacted second marriage and, therefore, the family pension be sanctioned in favour of his daughter Ku. Khushbu. It is seen that the respondents though do not dispute the claim of the family pension of Ku. Khushbu, yet it has not been paid on the ground that one or the other document in original was not submitted by the applicant.

9. The affidavit, filed today, indicates that the applicant had submitted all the required documents on 6.7.1998. This affidavit has not been rebutted. The respondents ought not to have raised technical objection that the original documents were not produced and only photo copies were produced. Most of the information was available in the official record of the respondents. It is admitted that in the service record of Smt. Suman Chauhan, the name of her first daughter was recorded besides the name of her husband. Therefore, there should not have been any objection in granting family pension in favour of Ku. Khushbu when the applicant had informed the respondents to grant the same to her.

9.2. After the applicant had informed the respondents to make payment of the family pension to Ku. Khushbu on 6.7.1998, there was no valid justification for the respondents to have retained the

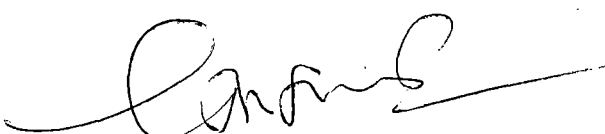


amount of the family pension. Ku. Khushbu, is therefore, entitled to interest at the rate of 10% per annum on the amount of the arrears of the family pension from @ 10% per annum from the date the same became due till the date of actual payment.

10. The applicant has also claimed interest on the various sums paid to him on account of GPF, NISL etc. Most of the amounts were paid in February, 1997 and in June 1997. It is seen that the deceased employee had not left nomination in favour of any of her family member. In order to ensure payment to the correct person, some time was bound to be taken by the respondents. It is further seen that the Cheques, sent to the applicant were returned undelivered. Some correspondence sent by messenger could not be delivered to the applicant as the house of the applicant was found to be closed. In these circumstances, it cannot be said that the respondents had deliberately avoided payment of the Medical, Bonus, Salary, Provident Fund, Gratuity, Encashment of Leave, G.P.F., NISL, DCRG etc. Interest is not required to be allowed for the delay in the payment of these terms.

11. The applicant has also claimed encashment of the H.P.L. No provision is shown by the learned counsel for the applicant which allows the encashment of the HPL. Therefore, the claim cannot be allowed.

12. Consequently, the application is allowed in part. The respondents are directed to make payment of arrears of family pension to Ku. Khushbu from 18.4.1998 within a period of two months from the date of the communication of the order, along with interest at the rate of 10% per annum from the date the family pension became payable each month till the date of payment. The respondents are further directed to continue to make payment of the



family pension to Ku. Khushbu and then to Sugandhika as per Rules.


12.1. Ku. Khushbu is minor and, therefore, the payment shall be made by Cheques in the name of Naresh Chand, who is father and natural guardian of Ku. Khushbu.

12.2. Naresh Kumar, applicant is directed to deposit 50% of the amount of the family pension in the Fixed Deposit Account to be opened in the name of Ku. Khushbu through Naresh Chand in some nationalised bank for long period. He is further directed to spend the remaining 50% amount on the welfare of the minor daughters particularly on their education and maintain the account of expenditure. He shall file the account of expenditure in this Court after every six months commencing from 31.12.2003.

12.3. After Ku. Khushbu is married, the family pension shall be paid to Ku. Sugandhika. Naresh Chand will deal with the amount in the same manner as stated above.

13. The respondents are directed to consider the T.A. claim of the applicant afresh within a period of two months from the date of communication of the order and pass a speaking order and communicate the same to the applicant. In case, the applicant is aggrieved, he is at liberty to challenge the order.

14. The applicant shall get Costs Rs. 1000/- from the respondents.


(G.C. Srivastava)
Adm. Member


(G.L. Gupta)
Vice Chairman

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