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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 275/2012

Jodhpur, this the 16th day of January, 2013.

CORAM

HON'BLE MR. JUSTICE K.C. JOSHI, JUDICIAL MEMBER

Smt. Swyamjyoti w/o Late Shri Jaideep Gaur
D/o Shri Purushottam Kumar Joshi resident of 2/A-23,
Madhuban Housing Board, Jodhpur
(at present applicant is not in service)

: Applicant

(Through Shri Vinay Jain, Advocate)

Versus

1. Union of India through the Director General, Indian Council of Medical Research, Ansari Nagar, New Delhi.
2. The Director, Desert Medical Research Centre (DMRC), Indian Council of Medical Research, Ramalindgam Swami Bhawan, New Delhi.
3. The Officer-In-Charge, Scientist – “F”, Desert Medicine Research Centre (DMRC), New Pali Road, Jodhpur.

(Through Shri M.S.Godara, Advocate)

: Respondents

ORDER (ORAL)

This application has been filed not against any impugned order but for grant of family pension to the applicant.

2. The applicant has prayed for the following relief(s):

- (a) *It is, therefore, prayed that by an appropriate order or direction, respondent be directed to release the family pension with 18% interest.*
 - (b) *Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.*
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3. The facts of the case is that the applicant's husband who was working as clerk cum typist under the respondent department expired on 12.5.2011 while in service. Applicant filed all relevant papers for getting family pension within the time. The grievance of the applicant is that she has not been paid family pension. Hence she filed a representation on 13.1.2012 (A1) and served a legal notice dated 24.1.2012. However, the respondents have not sanctioned the family pension to her.

4. The respondents filed reply to the OA and stated that there is no provision for grant of family pension to the widow under the New Pension Scheme as the applicant's husband was appointed on 1st November, 2006. They have further stated that the representation of the applicant was forwarded to the competent authority for release of other admissible benefits.

5. I have heard the learned counsel on both sides and gone through the annexures placed on record. Learned counsel for the respondents fairly admitted that the policy was issued by the Government of India, Department of P&PW OM No.38/41/06/P&PW(A) dated 5.5.2009 while considering the hardships being faced by the employees appointed on or after 1.1.2004 who are discharged on invalidation/disablement and the families of such employees who have died during service since 1.1.2004 to extend the benefit to the Central Civil Government servants covered by the New Pension Scheme on provisional basis till further orders. Para 5 Clause (II) of the said Memorandum dated 5.5.2009 is as under:

"(II) Death in service not attributable to Government duty:-

(i) Family Pension (including enhanced family pension) computed in terms of Rule 54 of the Central Civil Services (Pension) Rules, 1972.

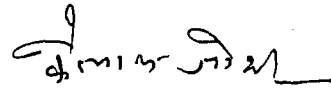
(ii) Death gratuity computed in terms of Rule 50 of the Central Civil Services (Pension) Rules, 1972."

6. The learned counsel for applicant contended that the case of the husband of the applicant has not been considered in view of clause (II) of the Memorandum dated 5.5.2009 issued by the Government of India. There is no averment in the reply that the

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case of the applicant's husband was considered in terms of the Memorandum dated 5.5.2009. Therefore, I deem it fit and proper to direct the respondents to consider the case of the applicant's husband in terms of Clause (II) of the Government of India Memorandum dated 5.5.2009 as referred in Para No.5. Hence respondents are directed to consider the case of the applicant for pension in terms of the above Memorandum (A3) within a period of four months from the date of receipt of a copy of this order. With these directions the O.A stands disposed of with no order as to costs.



(Justice K.C.Joshi)
Judicial Member.

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