

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 191

T.A. No. 199 1

DATE OF DECISION 7.1.1992

Pauly John

Applicant (s)

Mr. K. S. Madhusoodanan

Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary to Ministry of Agriculture
Dept. of Agriculture & Cooperation, New Delhi and others

Mr. V. V. Sidharthan, ACGSC

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Ad*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is the widow of late U.T. John, who was a Fitter under the third respondent when he expired on 27.2.82 at the age of 56. The applicant is claiming retiral benefits due to her on account of the death of her husband while in service. The reliefs claimed in this application are as follows:

"i) to call for the entire service records of the applicant's husband-U.T. John, from the third respondent.

ii) direct the respondents to grant the monitory benefit of Rs. 20,000/- under the Central Govt. Employees Group Insurance Scheme, 1980 with 12% ihterest from 27.2.1982.

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- iii) In the alternative direct the respondents to pay the monitory benefit of Rs. 5,000/- with 12% interest from 27.2.82 under the Central Government Employees Insurance Scheme, 1977.
- iv) Direct the respondents to pay the death-cum Retirement Gratuity pertaining to the service of the applicant's husband from 1959 to 27.2.82 with 18% interest.
- v) such other relief(s) as this Tribunal deems fit and proper."

2. According to the applicant, her husband entered the service of the then Off-shore Fishing Station under the Exploratory Fisheries Project. He continued without any break till 30.3.80. As per Annexure-I order dated 4.2.80, the Deputy Director of the then Bombay Base of Exploratory Fisheries Project appointed him as a Fitter on adhoc basis. Thereafter, by Annexure A-2 order dated 30.4.81 his service was regularised as a Fitter in the scale of Rs. 260-400 plus allowances as admissible to similar Central Govt. servants. While working at Cochin by order of the Deputy Director dated 22.1.82 he was enrolled as member of the Central Government Employees Group Insurance Scheme (CGEGIS) w.e.f. 1.1.82 and his monthly subscription at the rate of Rs. 20/- was deducted from the salary from January, 1982. Annexure A-3 memorandum establishes the enrollment of the applicant.

The applicant died on 27.2.82 at the age of 56. After his death when a doubt arose as to whether "completed years of service of the applicant includes service rendered on

adhoc basis) Annexure- A-4 query was sent to the Accounts Officer (HQrs), Principal Accounts Office, Ministry of Agriculture requesting to examine the case of the applicant and clarify whether the service rendered by the applicant on adhoc basis will count as temporary service for the purpose of CCS Temporary Service Rules. This was followed by Annexure A-5 note sent by the Pay and Accounts Officer, G. M. Mahale. Thereafter, since the applicant did not get any information, Annexure A-6 lawyer's notice was sent to the Director, Fishery Survey of India with copy to the Zonal Director, Cochin Base of Fishery Survey of India, Kochangadi, Cochin. This was replied by Annexure A-7 communication informing the lawyer that the case of the husband of the applicant has been "referred to the higher authorities for favourable consideration and the result will be intimated to the claimants on receipt." It is under these circumstances that the applicant has filed the application with the above reliefs.

3. The main relief of the applicant for getting a sum of Rs. 20,000/- with 12% interest based on her husband's enrollment under the 1980 CGEGIS cannot be sustained. The Ministry of Finance, O.M. No. F-15 (3)/78 WIP dated 27.12.80, indicating that ⁴ a new scheme was introduced which was made applicable to the employees in service on 1.1.1980 even if they have attained/crossed the age of 50 years. It is true that the applicant's name was enrolled under this scheme

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and monthly contribution had been deducted w.e.f. 1.1.1982

but the applicant was not eligible to be included in the scheme because he was not an employee on the crucial date satisfying the eligibility conditions under the scheme.

4. In the reply statement filed by the respondents, they have stated as follows:

"The late Shri John was erroneously enrolled as a member of the CGEGIS 1980 due to the reasons that he was not entitled to be enrolled as a Member of the new scheme. According to the conditions laid down in para 3 of the CGEGIS 1980, the scheme will not apply to persons recruited under the Central Govt. after attaining the age of 50 years while late Shri U.T. John was appointed as Fitter on regular basis at the age of 54 years and 7 months. A true copy of the abstract of the para 3 of the Scheme is produced herewith and marked as Annexure R-1.

As per the Service Records available with this office the date of birth of late Shri U.T. John is 6.9.26. He was appointed on regular basis with effect from 16.4.81 he is 54 years and 7 months. Therefore, his admission to the CGEGIS was erroneous and hence the benefits under the scheme was not effected. The deducted amount @ Rs. 20/- per month for the month of January and February 1982 from the monthly salary of late Shri U.T. John is being refunded to the wife of late Shri U.T. John."

They have also stated that the appointment of the applicant's husband prior to 1982 was purely casual in nature and hence he was not fulfilling the conditions for counting his casual service for the payment of retiral benefits as per the Government of India decision 2 below Rule 14 of CCS (Pension) Rules 1972.

5. Regarding second relief based on the CGEGIS 1977, we are of the view that the applicant has a strong case. As per O.M. No. F/16/14/77-IC dated 23.6.77, in case of no option, the employee will automatically come under Group-III. 
This scheme is applicable to all temporary officials

irrespective of the length of service and the upper age limit. Hence, the applicant's claim can be brought within the ambit of 1977 scheme. The respondents have also admitted this claim in the reply statement ~~in~~ in the following manner:

"It is true that the Government of India has introduced CGEIS to its employees from 1.7.1977 and late Shri U.T. John was not enrolled into the Scheme while he was working at Bombay base of F.S.I.

The individual has not enrolled to the Insurance Scheme which is purely on administrative lapse. On the other hand, it is submitted that the individual has also equal responsibility to bring to the notice of the office about his non inclusion in the scheme and ratification then and there. He was well aware that no recovery towards contribution to the CGEIS was being affected from his monthly salary. However, the matter is under the examination of the Department and an early decision will be taken in consultation with the authorities concerned."

6. Inclusion in the 1977 Scheme referred to above is automatic so far as persons coming under Group-III. The applicant's eligibility for the amount claimed by her in under 1977 scheme. ⁴¹ this application with interest cannot be denied. She is also entitled to the amount which had already been deducted from the salary of the applicant's ^{from January, 1980} after enrolling his name in 1980; is also liable to be refunded with ~~12%~~ ^{10%} interest.

7. The applicant also claims further service benefits due to her on account of the applicant's husband's service from 1959 as a casual employee. According to the applicant Shri John was having ¹⁰ uninterrupted service without any break till 30.3.80 and the adhoc appointment as Fitter was regularised before his death in 1982. Considering

the total service right from 1959 further service benefits were also eligible to the applicant's husband. Even though there is denial by the respondents with regard to the continuity in service of the applicant's husband from 1959, and the eligibility of further service benefits, it has been stated in the reply statement that " In regard to the service benefits as claimed by the applicant pertains to the year 1982 is under examination of authorities concerned. As stated above when it was intimated the position to the Counsel of applicant vide Annexure A-7 of the O.A. it is too early on the part of the applicant to approach this Hon'ble Tribunal for redressal." In para 13 again they have stated as follows:

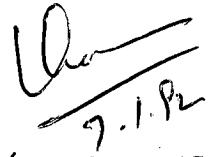
"It is submitted that an interim reply was sent to the applicant's counsel on 13.12.90. The matter is under examination. Final decision can be taken after taking into consideration of many factors in the light of rules and Regulations as the case is pretty old and belated one. The claims are morethan 9 years old..... The decision of the higher authorities can be communicated only at the appropriate time."

8. In the light of the statement that the claim of the applicant based on earlier service of her husband is under consideration, we are not further examining the contentions to ^b except/ dispose of the application with the direction to the respondents to disburse to the applicant the amount legally due to her under the third relief based on the CGEGIS, 1977 and the amount already deducted from the salary of ^b late John with 12% interest to her. We further direct the ^b respondents to dispose of the other service benefits now

pending consideration before the Govt., as expeditiously as possible, at any rate within a period of three months from the date of receipt of a copy of this judgment.

9. The application is accordingly disposed of as indicated above. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER

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