

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 374/2011

This the 8th day of February , 2013

Hon'ble Sri Justice Alok Kumar Singh, Member (J)

1. Km. Preeti aged about 21 years daughter of late Sri Ramesh Chandra.
2. Km. Hina aged about 18 years Handicapped (Deaf Mute) daughter of late Sri Ramesh Chandra.
3. Shiva, aged about 17 years son of late Sri Ramesh Chandra.

Applicant Nos. 2 and 3 are represented by their legal guardian Sri Lallan, aged about 70 years son of late Sri Bhakku.

All residents of House No.5, Sadar Bazar, Cantonment, Faizabad.

Applicants

By Advocate: Sri Prashant Singh for Sri R.C.Singh

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Deputy Chief of Army Staff, Integrated Headquarters of Ministry of Defence (Army) DHQ PO, New Delhi.
3. Commander, Allahabad Sub Area, Allahabad.
4. Station Commander/ Commandant, Dogra Regimental Centre, Faizabad.
5. Administrative Commandant, Station Headquarters, Faizabad.

Respondents

By Advocate: Sri Rajendra Singh

ORDER (Dictated in Open Court)

HON'BLE SHRI JUSTICE ALOK KUMAR SINGH, MEMBER (J)

In this O.A., reliefs have been sought in the following manner:-

- a) issuing /passing of an order or direction to the respondents to make payment of the family pension to the applicants from the date of death of their father, Safai Karmachari, who was murdered on 25.7.1999 including arrears and interest thereon within a specified period two months and pay the future family pension regularly every month.
- b) issuing/passing of an order or direction to the respondents to make payment of the death gratuity, GP Fund of

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late Sri Ramesh Chandra, Safai Karmachari (father of the applicants) to the applicants, along with interest at the current market rate within a specified period of two months.

c) issuing/passing of any other order or direction as this Hon'ble Tribunal may deem fit in the circumstances of the case.

d) allowing this Original Application with cost.

2. The case of the applicants is that they happen to be unfortunate children of late Ramesh Chandra, the then Safai Karmachari with the respondents at station headquarters, Faizabad who was unfortunately murdered on 25.7.99 while in service. The copies of death certificate, judicial order in respect of guardianship and succession certificate are on record. The mother of the applicants i.e. the first wife of the deceased had also died during life time of the deceased. The deceased employee had also performed second marriage with Smt. Shyama, who was involved in a Criminal case under Crime No. 249/99 u/s 302, 120 B of IPC and Section 3(2)(5) of SC/ST Act for committing murder of the deceased employee. She has been, however, acquitted by the Trial Court but orally it is said that the appeal is pending.

3. After the unfortunate death of late Ramesh Chandra in 1999, the applicants made repeated requests to respondent No.5 for all the retrial dues. But they were paid only arrears of balance salary and Group Insurance but the family pension and other retrial dues were not paid to them. The respondent No.5 however, wrote a letter dated 23.5.2008 to applicant No.1 asking for certain papers which were submitted on 10.8.2009. Out of the three applicants, Km. Hina, though aged about 18 years is handicapped (Deaf Mute), whereas Shiva is a minor and therefore, they got a legal guardian appointed by the Court and their legal guardian also submitted an application dated

24.5.2011 to respondent No.2 to pay remaining retrial benefits. But still nothing was done, though, a reminder dated 27.6.2011 was also submitted.

4. On behalf of the respondents, Counter Affidavit has been filed. The only explanation for not making payment of gratuity, family pension and other retrial dues as contained in para 8 of the OA. is that Lallan, father of the deceased employee had filed false statement and affidavit on account of which these payments were stopped. But it has not been elaborated as to what false statement and affidavit was given. The other point, which has been raised in the C.A. is in respect of second wife, another prospective claimant of retrial dues, who was an accused in the case of murder of his own husband and who has been acquitted by the Trial Court in ST No.759 of 1999 on 1.7.2009.

5. Rejoinder Reply has also been filed reiterating the averments made in the O.A.

6. I have heard the learned counsel for the parties at length and perused the entire material on record.

7. Having regard to the averments made by the parties as discussed hereinfore and also keeping in view the entire facts and circumstances of the case, It is found that the applicants are being denied amount of gratuity, family pension and other retrial benefits without any justifiable reason. Applicant No. 2 happens to be handicapped (deaf mute). Similarly, applicant No. 3, at the time of filing of O.A. was minor and therefore, they got a legal guardian appointed on their behalf. The relevant papers in this regard have been brought on record along with the succession certificate. The only explanation on behalf of the respondents is that on account of filing a false affidavit by the father of the deceased employee, the payment of gratuity , family

pension and other retrial dues was stopped. But as said above, it has not been elaborated as to what false statement was found in the affidavit. Even if, it was so, on this account, the applicants who are the legal heirs of the deceased employee vide succession certificate issued by a Court of Law, cannot be deprived from getting the above benefits in accordance with rules.

8. The learned counsel for respondents during the course of arguments expressed another anxiety that the second wife (widow) may also come forward to claim her share in the retrial benefits in accordance with rules. That anxiety can be taken care of by the respondents themselves by adhering to the relevant rules if any for the payment of gratuity, family pension and other retrial dues allocating relevant share if any when the same are claimed.

9. On the other hand, learned counsel for applicants emphasises that on account of delayed payment, interest at the current market rate may also be awarded. This submission has substance.

10. Finally, therefore, in view of the above, this O.A. deserves to be and is accordingly allowed with the direction to the respondents to make payment of all the retrial dues which are still outstanding including family pension in favour of the applicants in accordance with the relevant rules within a period of 3 months from the date of this order along with interest @ 8% or market rate whichever is higher, from the relevant date from when the outstanding retrial benefits became due to the applicants. No order as to costs.

Alok Kumar Singh
(Justice Alok Kumar Singh)
Member (J)