

1.

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

OA No.520 of 2005

Date of order : 12th August, 2005

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Miss Amita

Applicant

VIS.

Union of India & Ors.

Respondents

Counsel for the applicant : Shri N.K.Malhotra

Counsel for the respondents : Shri Rajesh Kumar, ASC

O R D E R

By P.K.Sinha, VC :-

Heard Sri N.K.Malhotra, learned counsel for the applicant and Shri Rajesh Kumar, learned ASC for the respondents.

2. This is an application on behalf of Miss Amita, daughter of the deceased employee for continuation of pension to her even after she has attained age of 25 years, as vide Annexure-1, payment of pension to her was ordered to be stopped w.e.f. 16.4.2003 as per extant rules on which date she had attained the age of 25 years.



3. The only ground of the ld. counsel for the applicant is that under Employees Pension Scheme 1995, which was formulated in exercise of powers conferred under Section 6 of the Employees Provident Fund and Miscellaneous Provisions Act, 1995 under para 16[3] [e] ~~in which~~ it was provided that if a member died leaving behind family having son or daughter who is permanently or totally disabled, such son or daughter shall be entitled for payment of children pension or orphan pension as the case may be irrespective of age and number of children in the family in addition to the pension provided under Clause D. The ld. counsel for the applicant further submits that the applicant is spastic and unable to perform the daily chores who is being represented by her guardian one Haribons Narayan Singh who was appointed as such by the Additional District Judge under order on 20.12.1993 in Guardianship Case No.81/91 [Annexure-2].

4. This provision under the aforesaid scheme has also been provided in CCS [Pension] Rules under Rule 54[6].

5. The claim of the applicant is that she is totally disabled to look-after herself or to earn livelihood, therefore, she is entitled for the pension as mentioned under the aforesaid pension scheme.

6. This being the position under the rules, it is for the respondents to verify, if the claim of the applicant that she is unable to earn her livelihood



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being spastic is correct and if found to be correct, then record an order in accordance with the provisions under the scheme.

7. The Respondent No.3, the Assistant Provident Fund Commissioner, Ranchi is directed to consider the case of the applicant in the light of the claim made by her in this application who will be free to make an inquiry or order such inquiry to be conducted by a responsible officer to verify the claim of the applicant about her disability and if so, pass order about continuance of children pension even after she is over 25 years of age, within three months of receipt of a copy of this order, which order will take retrospective effect, i.e., will be effective from the date on which her pension was stopped. If the Respondent No.3 does not find the claim to be permissible, he will record a speaking order for that within the same period. The applicant's guardian is directed to supply a copy of this order with a copy of this application alongwith annexures within three weeks of this order to the Respondent No.3.

8. This O.A. is, accordingly, disposed of. No costs.



[P.K. Sinha]
Vice-Chairman

mps.