

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 326/99

DATE OF DECISION: 14.10.1999

Shri Sunil Baban Habde Applicant.

Shri J.M. Tanpure, Advocate for
Applicant.

Versus

Union of India and others Respondents.


Shri R.K. Shetty Advocate for
Respondent(s)

CORAM

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to
other Benches of the Tribunal?
- (3) Library.


(R.G. Vaidyanatha)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO;326.99

THURSDAY the 14th day of OCTOBER 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

1. Sunil Baban Habde
2. Jyoti Baban Habde.
Residing at
Sawargaon P.O.Paud
Tal. Mulshi, Dist. Pune. ...Applicants

By Advocate Shri J.M.Tanpure.

V/s

1. Union of India through
The Secretary
Ministry of Defence,
South Block, New Delhi
2. The Commandant
Ordnance Depot,
Talegaon Dabhade,
Tal. Maval, Dist.Pune.
3. The Controller of
Defence Accounts
(Pension) Allahabad. ...Respondents


By Advocate Shri R.K. Shetty.

ORDER(ORAL)

{Per Shri Justice R.G.Vaidyantha, Vice Chairman}

In this application the applicant is claiming family pension. The respondents have filed reply. I have heard the learned counsel for both sides.

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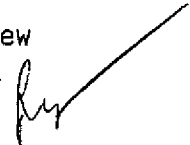


2. One Shri Baban Namdeo Habde was an employee as Mazdoor under respondent No.2. He died on 15.3.1979. After his death his wife Smt Sarubai Baban Habde was receiving family pension and she also died on 28.5.1983, leaving behind two children namely applicants, who were minor at that time. After attaining majority and after making some demand to get family pension, the applicants have approached this Tribunal praying for direction to respondents to pay family pension from the date of death of mother.

3. The respondents have no dispute regarding claim of the children to claim family pension on the death of the employee. The respondents have stated that the applicants have not preferred proper claim and if made it should be processed according to law subject ofcourse applicants satisfying that they are children of the deceased employee.

4. It is also not disputed that after the death of the employee the wife is entitled to family pension and after her death children are entitled to family pension till the age of 25 years and other conditions like getting employment or daughter getting married etc. The only dispute of the respondent is about the entitlement.

.....At the time of arguments the learned counsel for the respondents admitted that in the service record the first applicant's name is shown as son of the deceased. Then the only dispute is regarding the 2nd applicant's relationship with the deceased. Date of birth of the 2nd applicant is 2.6.1978. The employee died on 15.3.1979 about few



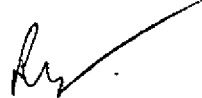
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months after birth of 2nd applicant. Therefor not furnishing the name of 2nd applicant to the department will not take away the right of the second applicant.

There is no dispute with regard to first applicant's relationship with the deceased employee. The application has been filed jointly by the 1st applicant saying that 2nd applicant is his sister. There is no reason to dispute the statement made in joint application. Then the applicants have produced school certificate which shows that both of them are the children of Shrfi Baban Habde. In addition to this applicants have also produced certificate issued by Village Panchayat which is signed by Gramsevak.

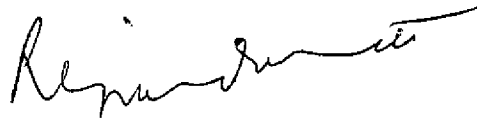
5. There is no doubt that both the applicants were minors till recently. The applicants have filed M.P. 266/99 for condonation of delay. They have given sufficient reasons explaining the delay. In these circumstances the delay is condoned by allowing the M.P. 266/99.

6. In the result the OA is allowed. It is declared that both the applicants are entitled to get family pension from the date of death of their mother i.e. from 28.5.1983 till they attain the age of 25 or subject to other conditions like daughter getting married etc.



...4...

The applicant, should go to office of respondent No.2 and sign the necessary forms for the purpose of getting family pension. The respondents should process the papers and sanction the amount within a period of four months from the date of receipt of necessary forms signed by the applicants. No order as to costs.



(R.G.VAIDYANATHA)
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

C.P. NO.: 25/2001 IN O.A. NO.: 326/99

Dated this Friday, the 17th day of August, 2001.

CORAM : Hon'ble Shri Justice B. Dikshit, Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

Sunil Baban Habde,
R/at-Sawargaon P.O. Paud,
Tal. Mulshi, Dist. Pune.

... Applicant.

(By Advocate Shri J. M. Tanpure)

VERSUS

1. Union of India through
The Secretary -
Shri Yogendra Narayan,
Ministry of Defence,
South Block, New Delhi.

2. The Commandant -
Shri Kamaljeet Singh,
Ordnance Depot,
Talegaon Dabhade,
Tal. Maval, Dist. Pune.

... Contemnors.

(By Advocate Shri R. K. Shetty)

TRIBUNAL'S ORDER

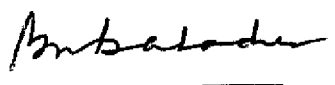
We have heard the Counsel for the parties. The Learned Counsel for the Applicants argued that applicants are entitled for half the amount of pension, as one of the wife was entitled only for gratuity and not for half of family pension. We are not satisfied with the argument. We have gone through the judgement

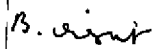
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passed in O.A. and find that the applicants has claimed family pension from the date of death of their mother. From the O.A. it is apparent that when the O.A. was filed, the applicants did not claim anything more.

2. The Learned Counsel for respondents has pointed out that whatever was being paid to the mother of the applicants is now being paid as family pension to applicants in compliance with the order passed in O.A. The Learned Counsel for Applicants has also not disputed that mother was getting 1/3rd pension, which alone has been paid by respondents and not half the amount of pension, for which the applicants have filed this petition, in view of the fact that one of the deceased wife could not get 1/3rd amount of pension.

3. We are concerned in this case only with giving effect to the order passed in O.A. and, therefore, when mother of applicants was getting 1/3rd of family pension, to which the family of deceased was entitled, it appears sufficient compliance of the order passed in the O.A. and there is no wilful disobedience on the part of the Respondents by not giving half the pension, which is being asked for by the applicants. The contempt petition fails. Notice is dropped.


(B. N. BAHADUR)
MEMBER (A).


(B. DIKSHIT)
VICE-CHAIRMAN