

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 255 of 2000.

Dated this \_\_\_\_\_, the 1<sup>st</sup> day of December, 2000.

Smt. Muktabai Sadashiv Adsul, Applicant.

Shri J. M. Tanpure, Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri R. K. Shetty, Advocate for Respondents.

CORAM : Hon'ble Smt. Shanta Shastry, Member (A).

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other Benches of the Tribunal ?

(iii) Library. Yes

]} No

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(Smt. SHANTA SHAstry)  
MEMBER (A)

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ORIGINAL APPLICATION NO.: 255 of 2000.

Dated this \_\_\_\_\_ the 1<sup>st</sup> day of December, 2000.

CORAM : Hon'ble Smt. Shanta Shastry, Member (A).

Smt. Muktabai Sadashiv Adsul,  
W/o. Late Sadashiv Maruti Adsul,  
Ex-Driver/VM Ticket No. 1821,  
Central Vehicle Depot,  
Dehu Road, Dist. Pune.

Residing at -

Ashirwad Niwas, H.No. 3/336,  
S.No. 47, Bapdev Nagar, Kiwale,  
Dehuroad, Pune - 412 113.

... Applicant.

(By Advocate Shri J. M. Tanpure)

VERSUS

1. Union of India through  
The Secretary,  
Ministry of Defence,  
South Block,  
New Delhi - 110 001.
2. The Commandant,  
Central AFV Depot, Kirkee,  
Pune - 411 003.
3. The Chief Controller of  
Defence Accounts (Pensions),  
Allahabad.

... Respondents.

(By Advocate Shri R. K. Shetty)

O R D E R

PER : Smt. Shanta Shastry, Member (A).

The applicant has sought following reliefs by way of this  
O.A.:-

- (i) A declaration that her husband is entitled for compensation pension. She is also entitled to life time arrears of compensation pension payable to her husband and arrears of family pension to her after her husband's death.
- (ii) The applicant's husband is entitled to ex-gratia payment from 01.11.1997 and the applicant is

entitled to life time arrears payable to her husband and ex-gratia payment to her after his death.

(iii) Compensation of Rs. 50,000/- for suffering of mental agony and torture due to non-receipt of compensation of pension and ex-gratia payment.

2. The applicant's husband was enrolled in the Indian Army as a Sepoy on 27.12.1941 and was discharged from the Army on 28.12.1946. Thereafter he was given service in the Central Vehicle Depot, Dehu Road, as Civilian Motor Driver from 22.01.1947. He was discharged from service on 27.03.1967 because the Vehicle Depot was disbanded. He was not given any further employment. He was a member of the Indian Ordnance Factories Contributory Providend Fund (Account No. 64920). He applied for pensionary benefits several times. His request was not considered favourably. He expired on 19.04.1999.

3. The case of the applicant is that her husband had put in 26 years of service. He is entitled to compensation pension in terms of Rule 39 of the C.C.S. (Pension) Rules, 1972 as per letter No. B-19007/Org.4 (Civ)(P) dated 11.07.1977 issued by Army Headquarters, Adjutant General Shakha, DHQ P.O. New Delhi, regarding grant of compensation pension/gratuity to individuals declared surplus (Exhibit A-3 of O.A.). According to the applicant, the respondents suppressed the said letter. The representation of the applicant's husband against discharge from service had also been considered and replied to on 23rd October, 1967. He was also informed about not being able to do anything about the pension at this stage in the absence of any documentary proof vide letter dated 29.08.1988

4. Again the applicant's husband needs to be paid ex-gratia payment under Appendix 13 decision (5) of CCS (Pension) Rules, 1972 with effect from 01.11.1997 as he was a CPF retiree.

5. The respondents have contended that the applicant's husband being a member of the CPF scheme has already been paid his dues under that scheme. He had not opted for pension scheme. Therefore, he cannot be considered for pension under Pension Rules, more so under Rule 39 of the C.C.S. (Pension) Rules. Further, the cause of action arose on 17th March, 1967 when the applicant's husband was discharged from service, whereas the applicant is approaching this Tribunal on behalf of her husband 33 years later. The O.A. is, therefore, grossly barred by limitation. Also, the Tribunal has no jurisdiction to adjudicate upon an alleged cause of action, which had arisen 33 years ago.

6. The respondents however are agreeable to consider the ex-gratia payment to the applicant, provided she applies for the same as per rules by filling up the relevant forms and producing the relevant documents. It can be granted to her if she is in a position to successfully prove that she is the wife of late Shri Sadashiv Maruti Adsul.

7. I have heard the Learned Counsel for both sides and have given careful consideration to the pleadings.

It is not disputed that the applicant's husband was a Member of the Indian Ordnance Factories Contributory Provident Fund and he was paid the dues on his discharge from service. He cannot, therefore, be entitled to pensionary benefits under the Pension Rules. The letter dated 11.07.1977 is not applicable in

the case of the applicant's husband. The Learned Counsel for the applicant argued that while circulating the letter, the authorities knew very well that the employees discharged were C.P.F. beneficiaries. Therefore, the applicant's husband should have been given the benefit of the letter. I have perused the letter. The letter merely clarifies that whether an individual on being rendered surplus and who is offered alternate post inconsistent with his status under the provisions and who refuses to accept such a post is eligible for compensation pension in terms of Rule 39 of C.C.S. (Pension) Rules, 1972. It is merely interpretation of Rule 39. It does not refer to those covered by C.P.F. I cannot, therefore, accept the contention of the applicant that this letter bestows any benefit on the applicant's husband. In my considered view, therefore the applicant's husband is not entitled to compensation pension. Consequently, the applicant also is not entitled to family pension or the arrears thereof. Moreover, the application suffers from laches and delays. The applicant's husband was alive till 1999. He could have applied for it himself. In fact he had applied and his case was rejected. On the ground of limitation itself, it deserves to be dismissed. Even though it being a recurring cause of action, even for pension there has to be a limitation.

8. As to the ex-gratia payment, the respondents have shown willingness to consider it, provided the applicant applies for the same. Appendix 13 is about exercising of option for changing over from C.P.F. to Pension Scheme. It does not apply in this case. The applicant's husband had not opted for it. The applicant has not produced any proof that her husband had applied for the Pension Scheme.

9. In the facts and circumstances of the case, the applicant's application for compensation pension for her husband has no merit. However, there is a case for granting of ex-gratia payment to the applicant. She is, therefore, directed to make the application after complying with all the formalities and with proof of her being the wife of late Shri Adsul within one month to the respondents. The respondents shall thereafter consider the same within one month and communicate the decision to the applicant.

10. The O.A. is disposed of accordingly. No costs.

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(Smt. SHANTA SHAstry)  
MEMBER (A).

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