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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original application No: 1064/92

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DATE OF DECISION 22.2.1994

Smt. P. B. Jadhav Petitioner

Shri J. M. Tanpure Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

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

CORAM:

The Hon'ble Shri Justice M. S. Deshpande, Vice Chairman

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?


(M. S. DESHPANDE)
VICE CHAIRMAN

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA.NO. 1064/92

Smt. Parvati Bandu Jadhav

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM : Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri J.M.Tampure
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 22.2.1994

(PER: M.S.Deshpande, Vice Chairman)

By this application the applicant seeks pensionary benefits which would have been payable because her husband was in respondents' service.

2. The applicant's husband was employed with the respondents from 26.3.1949 to 31.3.1969 for a period ~~over~~ ^{be} 20 years before he came to ~~/~~ discharged on account of ~~disbandment~~ of establishment. The letter dated 12.6.1972 shows that a scheme had been prepared under which an option has been given to the ~~employees~~ receiving C.P.Fund and other benefits to opt for pensionary benefits and failure to opt for it was to be treated as option to continue under the existing terms and conditions in respect of ETE/IE spells of service. The applicant's contention is that her husband ~~had~~ given an option. This position is denied by the respondents. However, the letter dated 13.9.1986 by the Lt.Col.N.K.Shukla, Administrative Officer addressed to Director General of Ordnance Services shows that as per the instructions given in the Army

HQs letter dated 5.5.1986 the pension claim of 7 persons including the applicant's husband B.R.Jadhav, Mazdoor had been prepared in accordance with Rule 59 (1) of CCS Pension Rules and had been forwarded to the CDA(P) Allahabad vide letter dated 8.9.1986. The subject shows that it related to Pensionary Awards to the Ex.DUV personnel in the absence of service documents. After that another letter was written on 20.1.1987 (Ex.A-4) and addressed to the deceased Bandu Rama Jadhav stating that the condition of submission of service documents had been waived by Army Headquarter's letter dated 5.5.1986 and his pension/gratuity claim was prepared and forwarded to CDA(P) Allahabad and that the claim had been resubmitted by the letter dated 21.11.1986. This is also the wording of the letter dated 9.6.1989 (Ex.A-5) which shows that CDA (Pension) Allahabad was requested to finalise the case and issue pension payment order at the earliest to avoid the financial hardship to the individual.

3. The applicant's husband having died on 4.11.1987, a letter came to be addressed on 30.6.1989 (Ex.A-6) to the applicant stating that her husband was not entitled to pension and gratuity because of the letter dated 9.5.1989 sent by the CDA(P) but a fresh recommendation had been made on 6.6.1989 to the CDA(P) and she would be informed of any further progress after the receipt from CDA(P). On 16.11.1989 by the letter Ex!A-7' the applicant was informed that she should exercise the option for pensionary benefits and forward it at the earliest to enable ^{the department} to project the case to Govt. of India. She was again informed by the letter dated 13.10.1990 that her option had been forwarded to the Govt. of India and the sanction was still awaited.

By the letter dated 4.2.1992 (Ex.A-9) the applicant was informed that some information had been sent to the higher authorities and the reply was awaited.

4. Shri Shetty, learned counsel for the respondents urged that the respondents had denied the position that the applicant's husband had put in 20 years of service. My attention was drawn to the statement to that effect in the rejoinder but it is obvious from the correspondence which I have mentioned above that such an objection was never made that the applicant's husband could not ~~not~~ have been eligible because he had not put in 20 years of service. Obviously that objection could have been raised at the first possible opportunity. As I have already been pointed out the letter dated 13.9.1986 makes it ~~very~~ clear that the pension papers had to be finalised in the absence of service documents. Surely the applicant cannot be blamed if the respondents had not been able to trace out the record and it will now ~~well~~ be ~~well~~ ~~highly~~ ~~impossible~~ for the applicant to show that he had completed 20 years of service from 26.3.1949 to 31.3.1969. I, therefore, see no substance in the objection that the applicant's husband had not put in the required number of years of service for getting pensionary benefits.

5. It is obvious that the delay by the respondents in dealing with the applicant's application has been phenomenal though repeated representations were made to the higher authorities. It seems that the attention of the powers that be was not drawn to the claim that was repeatedly made by a poor widow. If the pension papers had been processed during the life time of the applicant's husband with a view to enable him to give the option, it cannot be said that the option had not been exercised by the husband of the applicant.

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applicant. I, therefore, see no merit in the contention raised on behalf of the respondents. The impugned order dated 10.1.1990 which proceeded on the basis that the applicant's husband had not given his option during his life time has to be struck down in view of the factors referred to above. I find that the applicant is eligible for family pension and I direct the respondents to finalise the family pension of the applicant within ~~two~~ months from the receipt of a copy of this order and give all the pensionary benefits during that period. The applicant has already given ~~the amount~~ an undertaking that she will make good ~~of~~ of the contributary provident fund. The C.P.F. benefits which have been received may be adjusted from the arrears of pension which would be payable to the applicant.


(M.S.DESHPANDE)
VICE CHAIRMAN

mrj.