

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 691/97

Date of Decision: 16.7.1998

R.S.Naik

.. Applicant

Shri J.M.Tanpure

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri R.R.Shetty.

.. Advocate for
Respondent(s)

CORAM:

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

The Hon'ble

(1) To be referred to the Reporter or not ? *no*

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? *no*

R. G. Vaidyanatha

(R.G.VAIDYANATHA)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 691/1997.

Thursday, this the 16th day of July, 1998.

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

R.S.Naik,
827, Somwar Peth,
Talegaon Dabhade,
Tal-Maval,
Dist. Pune.

... Applicant.

(By Advocate Shri J.M.Tanpure)

V/s.

1. Union of India
through the Secretary,
Ministry of Defence,
South Block,
New Delhi-1.

2. The Commandant,
Ordnance Depot, Talegaon Dabhade,
Dist. Pune.

3. The Chief Controller of Defence
Accounts(Pensions),
Allahabad.

... Respondents.

(By Advocate Shri R.R.Shetty.)

O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This is an application filed by the applicant claiming family pension. The respondents have filed reply. I have heard the learned counsels appearing on both sides.

2. The applicant is the son of deceased Shantaram Pandurang Naik. The applicant's father was working under the respondents and retired from service in 1972. He died on 5.8.1981. Then the applicant's mother was getting the family pension till she died on 3.3.1992. The parents have left behind the applicant and other children. The applicant was the only one who was less than 25 years at the time of his mother's death. He has therefore claimed that he is entitled to get the family pension

till he attains the age of 25 years as per rules. His date of birth is given as 25.8.1968. Then the applicant has stated that on the insistence of the respondents to obtain a succession certificate, he filed an application for succession certificate in the Civil Court, but the application came to be rejected. That the applicant was put to great hardship and mental agony due to respondents not paying family pension due to the applicant. He has therefore approached this Tribunal praying for a declaration that he is entitled to get family pension from 3.3.1992 till 25.8.1993. He has also asked for interest, special expenses, compensation and exemplary costs from the respondents.

3. The respondents have filed ~~✓~~ reply. It is not disputed that the son is entitled to get family pension till he attains 25 years. The respondents are not aware whether the applicant is the son of the deceased and therefore insisted that the applicant should produce the succession certificate. It is stated that the applicant's name does not find a place anywhere in the service records as the son of the deceased employee. Hence it is prayed that the application be dismissed.

4. In the light of the arguments addressed before me, the question is whether the applicant is entitled to the family pension and other prayers as mentioned in para 8 of the O.A.?

5. The applicant did approach the Civil Court by filing an application for succession certificate, but the Civil Court rejected the application on the ground that the amount sought to be recovered is not a ~~debit~~ ^{debit} but it is a family pension to which the sone is legally

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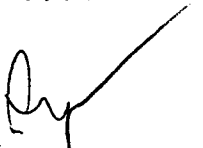


entitled. The Order of the Civil Court is dt. 15.10.1994. The Civil Judge has recorded a finding that the documents on record indicate that the applicant is the son of the deceased, but however, the application came to be rejected on a technical ground. Since the father of the applicant had nowhere disclosed the name of the applicant as his son in the service records, the respondents could not have paid the money to the applicant blindly without insisting on some succession certificate or other legal document. Therefore, the action of the respondents in calling upon the applicant to produce succession certificate cannot be said to be illegal or otherwise bad in law.

6. Now, the applicant has produced the affidavit of his ^{elder} brother Pandurang Shantaram Naik which says that the applicant is his younger brother. Then we have the Transfer Certificate issued by the College which shows ~~about~~ the applicant as the son of Naik Shantaram Pandurang. The date of birth also is shown as 25.8.1968. As already stated, even the Civil Court has recorded a finding to that effect. In my view, the documents on record are sufficient to show that the applicant is the son of deceased Shantaram Pandurang Naik. If once it is shown that the applicant is the son of the deceased employee, the applicant is entitled to family pension till he attains the age of 25 years. Hence I hold that the applicant is entitled to family pension for the period from 3.3.1992 to 25.8.1993.

7. Then there is a claim by the applicant for interest at the rate of 24% on the Family Pension arrears. I am told the arrears for these 17 months will come to less than 10,000/-. The respondents did not deny the claim of the applicant, but they only insisted that he

...4.



should produce proper proof for claiming the family pension. In the circumstances, I hold that the applicant's claim for interest is not sustainable. However, the applicant will be entitled to interest only from the date of filing this application in this Tribunal. The interest rate in the circumstances of the case may be awarded at 12% p.a.

8. The applicant has claimed Rs.2,000/- as expenses for approaching the Civil Court for succession certificate. The respondents are not liable to pay these costs. The respondents were well advised to demand the succession certificate since his name nowhere appeared in the service records. Therefore, the respondents are not liable to pay the expenses incurred by the claimant for getting the succession certificate.

9. The other claim of Rs.50,000/- by way of compensation is wholly mis-conceived. This Tribunal cannot grant damages or compensation and the applicant's remedy is elsewhere and not here.

Then the applicant has claimed exemplary costs of Rs.5,000/-. ^{AS} It is already stated that the respondents did not deny the claim of the applicant, but only demanded him to produce proper documents to get the amount. Hence the claim for exemplary costs is liable to be rejected.


10. In the result the application is partly allowed.

(1) It is declared that the applicant is entitled to family pension as the son of the deceased employee from the date of death of his mother till he attains 25 years i.e. from 3.3.1992 to 25.8.1993.

...5.



- (2) The respondents are liable to pay interest on the total arrears of family pension at 12% p.a. from the date of filing of this application viz. 21.7.1997 till the date of payment.
- (3) In the circumstances of the case there will be no order as to costs.


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

B.