

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO:351/98

Date of Decision: 13/8/98

Aminsab Abdul Karim Mufroz

.. Applicant

Shri J.M.Tanpure

.. Advocate for
Applicant

-versus-

Union of India & Anr.

.. Respondent(s)

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

CORAM:

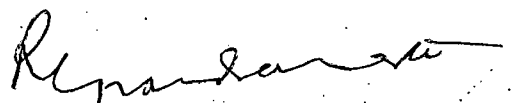
The Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

The Hon'ble

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

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

abp.


(R. G. VAIDYANATHA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD,

FORT, MUMBAI - 400 001.

ORIGINAL APPLICATION NO:351/98.

DATED THE 13TH DAY OF AUGUST, 1998.

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

Aminsab Abdul Karim Mufroz,
Son of late Abdul Karim Gausmiya Mufroz,
Ex-Employee of Ordnance Depot,
Talegaon Dabhade, Tal. Maval,
Dist. Pune.
R/o. Parandwadi, PO Talegaon,
Dabhade, Tal. Maval, Dist. Pune.

... Applicant.

By Advocate Shri J.M. Tanpure.

V/s.

1. Union of India, through
Secretary, Ministry of Defence,
South Block,
New Delhi-110 001.

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

... Respondents.

By Advocate Shri R.R. Shetty for
Shri R.K. Shetty.

I O R D E R I

I Per Shri R.G.Vaidyanatha, V.C.I

This is an application filed under section-19 of Administrative Tribunals Act claiming family pension. The learned counsel for respondents opposes the application. Since the point involved is short, by consent of both counsels, the OA is taken up for Final hearing at the admission stage. Few facts which are not disputed are as follows:-

2. The applicant is the son of late Shri Abdul Karim Gausmiya Mufroz. Applicant's father was working under the respondents and retired from service in 1982. He died on 23/6/91. Applicant's mother had pre-deceased applicant's father in 1990. The applicant is 100% blind by birth and is weak and infirm and is forced to depend on others for surviving. He is unable to earn his livelihood. He has therefore made claim for payment of family pension

for life time from the date of death of his father.

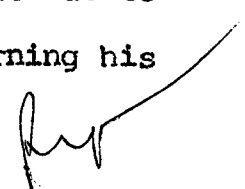
3. There was some correspondence between the applicant and the respondents. Since applicant did not get the family pension as per his request, he has approached this Tribunal praying for a direction to the respondents to pay family pension for life time.

4. It is not disputed that the applicant is 100% blind on the basis of Medical Certificate. The Learned Counsel for respondents submits that there is nothing on record to show in Medical certificate or otherwise that the applicant due to his handicap is unable to earn his own livelihood.

On the other hand, the learned counsel for applicant submits that since the applicant is 100% blind, he has to physically depend on others and therefore he is unable to earn his own livelihood and hence claimed for family pension.

5. The point under issue is covered by statutory provision namely Rule 54 (CCS Pension Rules) 1972. That rule provides how the members of the family are entitled to family pension after the death of retired Government servant. The relevant rule is Rule 54(6)(iv) where it provides that if a dependent member of the family has a handicap, the nature of which is debarring him from earning his own livelihood and the same shall be evidenced by a certificate obtained from a medical officer not below the rank of a Civil Surgeon that he is entitled to life time pension.

6. As far as Medical certificate is concerned, we find that the Civil Surgeon of Sassoon General Hospital has issued a certificate dated 17/6/93 which is at page-12 of paper book. The doctor has given a certificate to the effect that the applicant is 100% blind. It may be that the doctor has not mentioned in so many words that due to this handicap, the applicant is prevented from earning his



own livelihood.

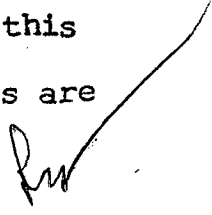
In my view, such an endorsement is not necessary in the case of a person who is 100% blind. It may be that in some other cases of handicap, a person whose one hand is ^{short} ~~limp~~ or a crippled person or any other type of handicap, there should ^{be} a substitute material in the medical certificate that due to the degree of handicap the person is unable to earn a livelihood. But as far as 100% blindness is concerned, we can take judicial notice that the applicant is prevented from earning his own livelihood, due to 100% blindness as indicated by the doctor.

7. Therefore, in my view the applicant's case falls squarely within the frame of Rule 54(6)(iv) of CCS Pension Rules 1972., and therefore the applicant is entitled to Family Pension from the date of death of his father for life time.

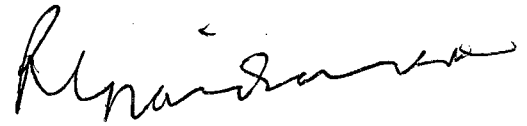
8. The Learned counsel for applicant submits that the applicant is entitled to interest on the arrears of family pension from the date of death of his father till the date of payment or alternatively from the date of filing of application. Since the family pension for a handicapped person is a concession given by Government under Pension Rules, I feel that the respondents should not be burdened with interest prior to the date of application. Ofcourse, the applicant will be entitled to interest from the date of application, till the date of payment. 9% interest would be just and reasonable.

9. In the result, the applicant is allowed as follows:-

The applicant is entitled to family pension as per rules from the date of death of his father namely 23/6/91 till his own life time as per rule 54(6)(iv). The applicant is entitled to interest @ 9% per annum on the arrears of family pension from the date of filing of this OA., namely 13/4/98 till date of payment. Respondents are



granted three months time from today to make the payment of arrears and then they must go on making payment of family pension every month. Since the OA is being allowed on merits, MP-266/98 is disposed of.



(R. G. VAIDYANATHA)
VICE CHAIRMAN

abp.