

(50)

# Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 996/90.

Date of Decision : 28.8.99.

T.A. No. -

Mrs. Begum Jani

Petitioner.

Shri S.D.Kulkarni

Advocate for the  
petitioner (s)

Versus

The Secretary, Min. of Communications, Respondent.  
Dept. of Posts, Dak Bhavan, New Delhi & 5 others

Shri N.R.Devaraj,  
Addl. CGSC

Advocate for the  
Respondent (s)

**CORAM :**

THE HON'BLE MR. J.Narasimha Murthy : Member(Jud1)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

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 Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4  
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HJNM  
M(J)

HRBS  
M(A)

(61)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A. No. 996/90.

Date of Judgment 28.8.1991.

Mrs. Begum Jani

.. Applicant

Vs.

1. The Secretary,  
Ministry of  
Communications,  
Department of Posts,  
Dak Bhavan,  
New Delhi.
2. The Addl. Secretary,  
Department of Pension &  
Pensioners Welfare,  
Nirvachan Sadan,  
New Delhi-110001.
3. The Chief Postmaster-General,  
Andhra Circle,  
Hyderabad-500001.
4. The Director of Postal Services,  
O/o Postmaster-General,  
Andhra Circle,  
Hyderabad-500001.
5. The Sr. Supdt. of Post Offices,  
Hyderabad Division,  
Hyderabad-500001.
6. The Senior Postmaster,  
Hyderabad GPO,  
Hyderabad-500001. .. Respondents

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Counsel for the Applicant : Shri S.D.Kulkarni

Counsel for the Respondents : Shri N.R.Devaraj,  
Addl. CGSC

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn) I

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This application has been filed by Mrs. Begum Jani  
under section 19 of the Administrative Tribunals Act, 1985  
against the Secretary, Ministry of Communications,  
Department of Posts, Dak Bhavan, New Delhi and 5 others.

2. The applicant is the widow of Shri Syed Jaffer,  
Clerk, Hyderabad GPO, who expired on 6.10.74. Shri Syed

Jaffer joined the Ex-Hyderabad State Postal Service during 1948. After financial integration of the Ex-Hyderabad State Postal Service his services were transferred to the Central Government Postal Service on 1.4.50. The services of Shri Syed Jaffer were terminated on 14.9.64. The Family Pension Scheme, 1964 covers Govt. servants who were in service as on 31.12.63. The scheme provides for family pension to the family of those Govt. servants who retired on superannuation or on being declared permanently incapacitated for further <sup>the</sup> Govt. service by appropriate medical authority after having rendered 10 years of temporary/quasi-permanent service as on 1.1.86. It is the case of the applicant that her husband having put in more than 10 years of temporary service as on 1.1.86 she comes within the purview of this scheme and is, therefore, entitled to family pension. She made a representation to the Department and this was rejected stating that the services of Shri Syed Jaffer were terminated under Rule 5 of the C.C.S. (Temporary Service) Rules, 1949 on 14.9.64 and hence no pensionary benefits are admissible to the applicant. Aggrieved, the applicant now prays that the Tribunal direct the respondents to bring her within the purview of the Family Pension Scheme and give her the benefit of family pension.

3. The respondents have filed a counter affidavit and oppose the application. It is pointed out that the services of Shri Syed Jaffer were terminated on 14.9.64 itself and when he died 10 years later i.e., on 6.10.74 he was himself not drawing any pension. When the deceased official himself was neither a pensioner nor was in Govt. service at the time of his death the question of ~~granting~~ ~~getting~~ family pension does not arise.

4. We have examined the case and heard the learned counsel for the applicant Shri S.D.Kulkarni and Shri N.R.Devaraj for the respondents. The Family Pension Scheme covers those who had put in more than 10 years of temporary/quasi-permanent service as on 1.1.86. It covers persons who retired on superannuation or on being declared permanently incapacitated for further Govt. service by the appropriate medical authority. While the applicant contends that it was on medical invalidation that the services of Shri Syed Jaffer were terminated the respondents contend that his services were terminated under Rule 5 of the C.C.S.(Temporary Service) Rules, 1949. The applicant relies on a letter dated 16.4.64 of the Postmaster, Hyderabad addressed to the deceased official conveying adverse remarks. The letter contains many adverse remarks about his performance during the year 1963-64. In that letter against the column "Conduct" a remark had been added "Somewhat blind" and not punctual. It is this remark "Somewhat blind" ~~and not punctual~~ that the applicant has picked up in isolation and developed. According to her, the applicant was referred to the Superintendent, Sarojini Devi Eye Hospital, Hyderabad for opinion regarding his further continuation in service and eventually he was declared permanently incapacitated and hence the termination of service on 14.9.64. We have checked up the records of the respondents and nowhere do we find a case regarding medical examination or invalidation on medical grounds. It is also difficult to believe that "somewhat blindness" observed during 1963-64 could develop into such a major catastrophe within a period of six months resulting in the termination of service in September, 1964 itself. On the other hand there is <sup>more</sup> ~~no~~ reason to believe from the numerous adverse remarks communicated to him in April, 1964 that the respondents, not satisfied with his services had

To

1. The Secretary, Ministry of Communications  
Department of Posts, Dak Bhavan, New Delhi.
2. The Additional Secretary,  
Department of Pension and Pensioners Welfare,  
Nirvachan Sadan, New Delhi.
3. The Chief Post Master General, Andhra Circle, Hyderabad-1.
4. The Director of Postal Services,  
\* The Post Master General, Andhra Circle, Hyderabad-1.
5. The Senior Superintendent of Post Offices,  
Hyderabad Division, Hyderabad-1.
6. The Senior Post Master, Hyderabad G.P.O. Hyderabad-1.
7. One copy to Mr. S.D. Kulkarni, Advocate,  
Neel Rekha, 99, Postal Colony, Trimulgherry, Hyd-95.
8. One copy to Mr. N.R. Devraj, Addl. CGSC. CAT. Hyd.
9. One copy to Hon'ble Mr. J. Narasimha Murty, Member (J) CAT. Hyd.
10. One spare copy.

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terminated his services under Rule 5 of the C.C.S. (Temporary Service) Rules, 1949 and in such termination reasons for the termination are not to be given according to the instructions on the subject.

5. The applicant also relies on a letter dated 30.5.88 from the Sr. Supdt. of Post Offices, Hyderabad Division, Hyderabad wherein it is stated "As the said official was discharged from service on invalidation with effect from 14.9.64 F/N.....". The applicant therefore concludes that Shri Syed Jaffer was discharged on invalidation whereas in the first paragraph of the same letter the Sr. Supdt. of Post Offices, Hyderabad Division, Hyderabad had answered the applicant's claim that it was on invalidation. It is stated that while she claims that he was retired on invalidation during 1963 the records show that the official was discharged from service on 14.9.64. These contradictions cannot lead one to believe that his services were terminated on invalidation unless they are supported by other documents. We are not able to find any of these in the records submitted by the Department. They have also expressed their difficulty to locate any other records at this distant date. We find from the letter dated 14.9.64 relieving him that it was done so in pursuance of an order dated 12.8.64 of the Sr. Supdt. of Post Offices, Hyderabad Division, Hyderabad. That letter clearly shows that his services were terminated after due notice of one calendar month under Rule 5 of the C.C.S. (Temporary Service) Rules 1949.

6. Such being the case, the deceased official was not entitled to any pension and as a result the family is also not entitled to any family pension. We, therefore, dismiss the application with no order as to costs.

M/S

R. Balasubramanian

( R. Balasubramanian )  
Member(Admn).

( J. Narasimha Murthy )  
Member(Judl.).

Dated

28<sup>th</sup> August 91

✓  
J. Narasimha Murthy  
Member(Judl.)  
Dated 28<sup>th</sup> August 91

(3)

ASR  
21/9/91

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(S)

AND

THE HON'BLE MR. J. NARASIMHA MULTY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 28-8-1991

ORDER/JUDGMENT

M.A./R.A./C.A. No.

in

D.A. No. 996/90

T.A. No.

(W.P. No.

Admitted and Interim  
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



28/8/1991  
ASR  
21/9/91