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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.869/92

Date of Order: 5.2.1993

BETWEEN :

B.Ajay Kumar

.. Applicant

A N D

1. The Union of India,  
represented by its Secretary,  
Department of Telecommunications,  
Ministry of Telecommunications,  
NEW DELHI.

2. The Accounts Officer (P&A),  
O/o the General Manager,  
Telecommunications,  
Suryalok Complex,  
Hyderabad.

3. The Assistant Chief  
Accounts Officer,  
o/o the General Manager,  
Telecommunications,  
Hyderabad.

.. Respondents.

Counsel for the Applicant

.. Mr. S. Ramakrishna  
Rao

Counsel for the Respondents

.. Mr. M. Keshava Rao

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CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

--- T.C.R

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Order of the Single Member Bench delivered by  
Hon'ble Shri T.Chandrasekhara Reddy, Member (Jud1.).

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This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to pay to the applicant all pensionary benefits and other benefits that accrued to the deceased Government servant (P.E.Victor) with all consequential benefits and to pass ~~such~~ other order or orders as may deem fit and proper in the circumstances of the case.

The facts so far necessary to adjudicate this O.A. in brief are as follows:-

2. One P.E.Victor was working in the Department of Telecommunications as Technical Supervisor. He died while in service. The applicant herein is no other than the brother's son of the said P.E.Victor. The said P.E.Victor had executed a will dated 1.2.1991 bequeathing all the pensionary benefits and other retirement benefits and also other movable and immovable properties of the said P.E.Victor in favour of the applicant herein. The said P.E.Victor died on 13.2.1991. As the D.C.R.G. was not paid to the applicant even though the applicant was nominated for the same by Mr.P.E.Victor, the applicant moved O.A.81/92 before this Tribunal. As per the orders dated 14.2.1992 in O.A.81/92, this Tribunal directed the respondents to pay only the whole of the death-cum-retirement gratuity of the said P.E.Victor to the applicant, after being satisfied that the applicant P.Ajay Kumar was a major and was duly identified. The payment of gratuity as per the directions of the Tribunal had been made to the applicant. But the grievance of the applicant is that the respondents have not paid (1) family pension (2) amount due towards Earned Leave Encashment (3) amount on the group insurance scheme (4) G.P.F. (5) arrears of

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salary with allowances if any were payable to Late P.E.Victor (6) bonus. So, the present application is filed by the applicant for the relief/reliefs as already indicated above.

3. Counter is filed by the respondents opposing this O.A.

4. In the counter filed by the respondents it is maintained that there is no evidence to show that the applicant is the adopted son of the said P.E.Victor and in view of this position, the applicant cannot be paid any of the benefits claimed by him (applicant).

5. Today we have heard Mr.S.Ramakrishna Rao, Advocate for the applicant and Mr.M.Keshava Rao, Standing Counsel for the respondents.

6. Admittedly the applicant and the said late P.E.Victor belong to Christian faith. It is not necessary to go into the question where there is valid adoption of the applicant (Ajay Kumar) by the said P.E.Victor as the same is unnecessary for the disposal of the O.A.

7. Admittedly the said P.E.Victor had executed the ~~will~~ will dated 1.2.1991 in favour of the applicant. In the said will the said Victor had signed and also put his thumb mark. The said will is duly attested by two witnesses who are government servants. After perusing the records we do not have any hesitation to come to the conclusion that the said will dated 1.2.1991 had been executed by the said P.E.Victor in favour of the applicant herein in a sound and disposing state of mind and the same had been duly attested. The fact that the said P.E.Victor died on 13.2.1991 is not in dispute in this O.A. The fact that the said will dated 1.2.1991 is the last testament of the said P.E.Victor in favour of the applicant cannot be doubted as none else had approached

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respondents claiming the death-cum-retirement benefits that were payable to the said P.E.Victor. As already pointed out the said P.E.Victor had died on 13.2.1991. So, the said will had come into effect w.e.f. 13.2.1991. So, as the said will dated 1.2.1991 had been duly executed and as the same had come into effect from 13.2.1991 from the date of the death of the said P.E.Victor, the applicant becomes entitled under the said will to all the benefits that had been bequeathed to him (applicant). As could be seen from the said will the said P.E.Victor had bequeathed all his properties, pensionary benefits etc. in favour of the applicant. The first question that is to be decided is whether the applicant can claim the family pension under the said will dated 1.2.1991. We may straight away referto a decision of the Supreme Court reported in case of Smt Violet Issac and others Vs. Union of India and others in A.I.R. 1991 (1) SLR SC 735 where it is said that pension payable under the rules cannot be bequeathed by means of a will by the deceased employee. The applicant being an outsider under (C.C.S) Pension Rules, is not entitled to any family pension. Hence the claim of the applicant with regard to the payment of family pension is liable to be rejected and accordingly rejected. So far other items are concerned namely the amount due towards Earned Leave Encashment, amount on the group insurance scheme , G.P.F., arrears of salary with allowances if any and bonus the applicant becomes entitled for payment of the same in pursuance of the will dated 1.2.1991 is not in dispute.

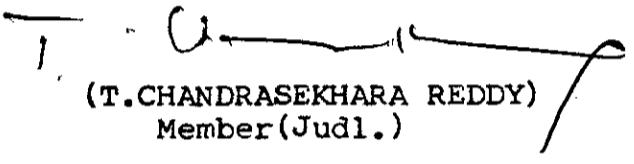
8. Hence the respondents are hereby directed to pay to the applicant the amount due towards earned leave encashment amount on group insurance scheme, G.P.F., arrears of salary if any with allowances and bonus accrued to Late P.E.Victor within 3 months from the date of the communication

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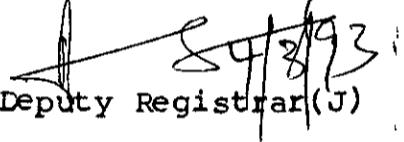
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of this order. O.A..is allowed accordingly, leaving the parties to bear their own costs.

  
(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

Dated: 5th February, 1993

(Dictated in Open Court)

  
Deputy Registrar (J)

To

1. The Secretary, Union of India, Dept.of Telecommunications,  
Ministry of Telecommunications, New Delhi.
2. The Accounts Officer (P&A),  
O/o the General Manager, Telecommunications,  
Suryalok Complex, Hyderabad.  
sd
3. The Assistant Chief Accounts Officer,  
O/o the General Manager, Telecommunications, Hyderabad.
4. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
5. One copy to Mr M.Kesava Rao, Addl.CGSC.CAT.Hyd.
6. One spare copy.

pvm

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. V. NEELADRI RAO : V.C.

AND

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

AND

THE HON'BLE MR. CHANDRA SEKHAR REDDY : MEMBER (J)

AND

THE HON'BLE MR.

DATED: 5-2-1993

~~ORDER~~ / JUDGMENT:

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

in  
M.A. No. 869/92

T.A. No.

(W. P. No.)

Admitted and Interim directions  
issued.

Allowed

Disposed of with directions

Dismissed as withdrawn

Dismissed

Dismissed for default

Rejected/Ordered

No order as to costs.

*spare copy not received*  
10/3/93

pvm

