

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.638/92

Date of Order: 3.8.1992.

BETWEEN:

Smt.K.Varahalamma

.. Applicant.

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1. The Admiral Superintendent,  
Naval Dock Yard,  
Visakhapatnam.

.. Respondent.

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Counsel for the Applicant

.. Mr.K.Vinay Kumar

Counsel for the Respondents

.. Mr.N.R.Devraj, Sr.Cs-

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CORAM:

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

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

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This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondent to sanction family pension to the applicant with regard to her deceased son who was unmarried, with retrospective effect and pass such other orders as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief are as follows:

2. The applicant before us is a female by name Smt K. Varahamma. The said Smt Varahamma has two sons. One of her sons Sri KGK Raju worked in the Respondent's organisation as Plater. Sri KGK Raju died on 20.11.1986. Due to the death of the said Sri KGK Raju the other son of the applicant (Younger brother of Sri KGK Raju) is provided a job by the respondent on compassionate grounds. The applicant herein had put in a representation to the respondent for payment of family pension under Central Civil Services (Pension) Rules. The respondent rejected the claim of the applicant through the impugned order dated 16.4.92 on the ground that the mother (applicant) is not entitled for pension. Hence, the present OA is filed for the relief as already indicated above.

3. We have heard today, Mr K. Vinay Kumar, Advocate for the applicant and Mr. NR Devraj, Standing Counsel for the respondent with regard to the admission of this OA.

4. Rule 54(14)(b) of CCS Pension Rules 1972 defines 'family' in relation to a Government servant for payment of pension, as follows:

- (i) "Wife in the case of a male Govt. servant or husband in the case of a female Govt. servant, provided the marriage took place before retirement of the Govt. Servant.

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- (i) a judicially separated wife or husband, such separation not being granted on the ground of adultery, provided the marriage took place before the retirement of the Government servant, and the person surviving was not held guilty of committing adultery.
- (ii) son who was not attained the age of (twenty five) years and unmarried daughter who has not attained the age of (twenty five) years, including such son and daughter adopted legally before retirement.

As seen from the said definition the mother does not figure at all as the member of the "family" for the purpose of paying family pension. Learned counsel for the applicant had pleaded in the OA for payment of pension to the applicant on the basis of Rule 55 of the family pension Rules of 1950. ~~The said Rule 55 of the Family Pension Rules of 1950.~~ The said Rule 55 of the Family Pension Rules of 1950 is deleted w.e.f. 20.7.1988 and the said notification deleting the said clause (Rule 55 of the Pension Rules) is also published in the Gazette of India as S.O.No.2388 dated 6.8.1988. Rule 55 of the Pension Rule 1950 makes it clear if there are <sup>no</sup> surviving members of the family as in clause (a) of the said Rule 55, then only family pension can be granted to the father failing to the mother. It is the contention of the learned counsel for the applicant that as the mother is the sole surviving member in the family that she is entitled for pension. But the said contention can not be accepted due to the fact that the applicant has got other son who admittedly is provided an appointment on compassionate grounds due to the death of the eldest son of the applicant. In view of this position the applicant is not entitled for family pension. Learned counsel for the applicant made fervent appeal and strongly contended that the definition of the 'family' has got to be confined only with relation to the deceased employee and <sup>so</sup> ~~in view of this position that~~ mother being the sole family member of the

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deceased employee that she is entitled for pension. For the purpose of payment of pension the mother of the applicant herein and her two sons (the deceased and his younger brother) have got to be treated as members of only one family. No other interpretation can be given to the definition of the "family" with regard to the case on hand. So the contention of the counsel the family has got to be confined only in relation to the deceased cannot be accepted. The learned counsel for the applicant further submitted that the surviving brother who is provided appointment on compassionate grounds is not a member of the 'family' in relation to the deceased. Such an argument cannot be accepted as already pointed out, as we are of the opinion that the mother, the deceased and the other son who is provided compassionate appointment constitute members of the 'family'. We see no merits in this OA and hence this OA is rejected summarily under Rule 19(3) of the Administrative Tribunals Act. There shall be no order as to costs.

T. Chandrasekhara Reddy  
(T.CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 3rd August, 1992.

(Dictated in the Open Court)

8/2/89  
By. Registrar (Judl.)

Copy to:-

- sd 1. The Admiral Superintendent, Naval Dock Yard, Visakhapatnam.
2. One copy to Sri. K.Vinay kumar, advocate, 1-3-183/40/C/2/Gandhinagar, Hyd.
3. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
4. One spare copy.

Rsm/-

Handwritten signature/initials at bottom left corner.

O.A. 63879

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

THE HON'BLE MR.

V.C.

AND

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

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY;  
MEMBER (JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 3/8/1992.

ORDER / JUDGMENT

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

in

O.A.No.

638792

T.A.No.

(W.P.No.)

Admitted and interim directions  
issued

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/Rejected.

No order as to costs.

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