

48

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.A.No.551/95

Date of Order: 19.8.96

BETWEEN :

Smt.Paila Dalamma

.. Applicant.

AND

1. The Union of India, rep. by  
the Defence Secretary,  
New Delhi.
2. The Commandant, Central Vehicles  
Depot, Panagarh, Kendriya Gachi Depot,  
Panagarh, Burdawan Dist., (W.B.).
3. The Controller of Defence Accounts,  
Droupadi Ghat, Allahabad (U.P). .. Respondents.

- - -

Counsel for the Applicant

.. Mr.G.V.Sekhar Babu

Counsel for the Respondents

.. Mr.K.Bhaskara Rao

- - -

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

- - -

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

- - -

Heard Mr.G.V.Sekhar Babu, learned counsel for the applicant and Mr.K.Bhaskara Rao, learned standing counsel for the respondents.

2. The applicant in this OA submits that she is the wife and of late Sri Tonkayya who worked under R-2/died on 1.10.59. It is stated that he is a P.F. optee and his P.F.No. was 35437. By the memo No.4/1/87/P.&P.W.(PIC) dated 13.6.88 the Government of India granted ex-gratia payment to the widows of the P.F. optees who had retired from service and subsequently died prior to 1.1.86 or who died while in

D

service before 1st January 1986. The applicant submitted a representation for grant of Ex-Gratia payment in terms of the above said O.M. of DOP by her representation dated Nil (page-5 of the OA). But her representation was rejected on the ground that late Sri Tonkayya was discharged from service due to long absence and as such Ex-Gratia payment is not admissible to his family as requested.

3. This OA is filed praying for a direction to the respondents to pay her the ex-gratia allowance of Rs.150/- p.m. plus D.A. w.e.f. 1.1.86 in terms of the DOP circular dated 13.6.88 referred to above.

4. Respondents have filed a reply. There are 2 main contentions in this reply/ They are :-  
to reject her request.

(i) It is not known to the respondents as to whether the applicant is the legally married wife of late Sri Tonkayya or not. Though they confirmed Ticket No. of Sri Tonkayya as given by the applicant in her OA it is stated that the name of the applicant has not been recorded as wife in the service documents of Ticket No.2702-Ex-mazdoor-late Sri Tonkayya.

(ii) The deceased employee, Sri Tonkayya, was discharged from service w.e.f. 1.10.59 due to long and unauthorised absence and hence no ex-gratia payment can be paid.  
It is not clear whether the discharge is on account of removal or dismissal or otherwise.

5. The applicant has filed a rejoinder. This rejoinder does not state anywhere with proof that the applicant is the legally wedded wife of late Sri Tonkayya. Though the applicant relies on the impugned letter dated 21.10.94 to state that the impugned letter is addressed to her treating her as his family. This contention cannot be accepted as the wording in the impugned letter does not give her the status of the legally wedded wife.

US

The applicant also relies on the other documents both from his application as well as in the reply to prove the fact that the applicant is the legally wedded wife of late Sri Tonkayya. But a reading of these documents did not give me the impression that the applicant had proved her case as legally wedded wife of late Sri Tonkayya. Even in the rejoinder there is no proof to come to the conclusion that the applicant is a legally wedded wife of Sri Tonkayya and hence she is entitled for ex-gratia payment.

6. The learned counsel for the applicant on the basis of the identity card issued to her by the Election Commission of India wherein the name of the husband of the applicant is shown as Tonkayya, submitted that her husband's name is shown as Tonkayya in public document and hence there can be no doubt about the status of the applicant as the wife of late Sri Tonkayya. This argument is fallacious as the Election Commission would not have made any scrutiny while recording Sri Tonkayya as her husband. They have merely entered the name of Sri Tonkayya as her husband on the verbal assertion of the applicant. The learned counsel for the applicant could not state the proofs that were relied upon by the Election Commission of India to indicate Sri Tonkayya as her husband. Hence this contention though vehemently argued has no leg to stand.

7. However the applicant is at liberty to prove by reliable documents that the applicant is the legally wedded wife of late Sri Tonkayya. If such a proof is produced by the applicant, R-2 should reconsider the issue of payment of ex-gratia payment to the applicant in accordance with the rules. The dismissal of this OA will not stand in the way of the applicant to reject her case for ex-gratia payment if she produces reliable and conclusive documents to prove her status as the legally wedded wife of late Sri Tonkayya.

ut

8.

The second contention of the respondents in rejecting her case is that the applicant was discharged from service w.e.f. 1st October 1959 due to long unauthorised absence. This statement in no way indicates that late Sri Tonkayya was removed or dismissed from service. Mere discharge from service of late Sri Tonkayya should not stand in the way of the applicant to get the ex-gratia payment in case the applicant is the legally wedded wife of late Sri Tonkayya and fulfills other conditions of O.M. dated 13.6.1988. Though the learned standing counsel was asked to produce the concerned documents to prove that late Sri Tonkayya was discharged from service as a punishment leading to removal or dismissal from service following the extant rules, the learned standing counsel could not produce any such document in this connection. In the absence of the inability of the respondents to show that the applicant was discharged from service due to his removal or dismissal from service, their second contention cannot be sustained. Unless established documents to prove the removal or dismissal of the applicant is produced, mere discharge should not stand in the way of the applicant to get the benefit of the circular of D.O.P. dated 13.6.1988.

9. Under the present circumstances the only direction that can be given is that in case the applicant produces reliable and conclusive documents to R-2 to prove that she is the legally wedded wife of late Sri Tonkayya she has to be granted the ex-gratia payment if she fulfills all other conditions laid down in the circular of D.O.P. But the respondents are at liberty to deny her the ex-gratia payment even if she produces the documents as above in case they are able to sustain their case of late Sri Tonkayya having been removed or dismissed from service in accordance with the rules based on tangible records.


9. In the result, the following direction is given:-

1

uo

The applicant is entitled for ex-gratia payment if she proves her bonafide to the satisfaction of R-2 as legally wedded wife of late Sri Tonkayya on the basis of the reliable and conclusive documents and fulfills other conditions laid down in the D.O.P. circular. But the respondents can deny her that payment even if such convincing proofs are produced provided they are able to sustain their case on the basis of records and in terms of extant rules that the late Sri Tonkayya was discharged from service on account of removal or dismissal.

10. The OA is ordered accordingly. No costs.

  
( R.RANGARAJAN )  
Member (Admn.)

Dated: 19th August, 1996  
(Dictated in Open Court)

  
Dy. Registrar (S)

sd

118

: 6 :

Copy to:-

1. The Secretary, Ministry of Defence, Union of India, New Delhi.
2. The Commandant, Central Vechiles Dept., Panagarh, Kendriya Gachi Depot, Panagarh, Burdawan Dist, (W.B.).
3. The Controller of Defence Accounts, Droupadi Ghosh, Allahabad (U.P.).
4. One copy to Sri. G.V.Sekhar Babu, advocate, CAT, Hyd.
5. One copy to Sri. K.Bhaskara Rao, Adml. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

6/19/96

AA-551/95

Typed By  
Compared by

Checked By  
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 19/8/96

ORDER/JUDGEMENT  
R.A./C.P./M.A. NO.

O.A. NO.

IN  
551/95

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

No Spare Copy

