

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.324/2000 Date of order: 23.7.2000

Smt.Kamla Panjwani, W/o late Sh.U.K.Panjwani, R/o
107, Hanuman Nagar, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini. of Finance,
Govt of India, New Delhi.
2. Asstt.Commissioner of Income Tax, Office of Dy.
Commissioner of Income Tax, Range-II, Jaipur.
3. Commissioner of Income Tax, Jaipur.

...Respondents.

Mr.Arjun Karnani : Counsel for applicant

Mr.N.K.Jain) : for respondents.

Mr.Saurab Jain)

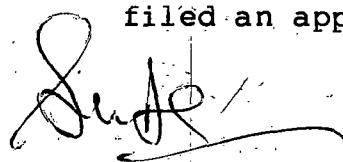
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to declare that husband of the applicant Sh.U.K.Panjwani was entitled to pension from the date of his retirement and the applicant is entitled to arrears of pension of her late husband. It is also prayed that the applicant is entitled to family pension w.e.f. 2.2.98 with interest @ 18% per annum.

2. The case of the applicant is in nutshell is that her husband, U.K.Panjwani was serving as Income Tax Officer and he was prosecuted under Sec.5(2) of the Prevention of Corruption Act and was convicted by the Special Court, CBI Cases, Jaipur on 17.3.92. It is stated that Sh.U.K.Panjwani filed an appeal against the said conviction/sentence and the

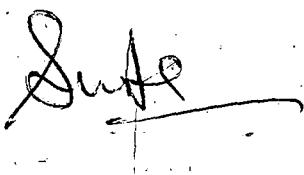


sentence was suspended by the High Court. During the pendency of the appeal, the Sh.U.K.Panjwani died on 2.2.98, therefore, the appeal was abated. It is stated that the applicant is entitled to arrears of pension and family pension but the respondents are not paying the same to her illegally and arbitrarily therefore, the applicant filed a representation through her counsel on 12.4.99 seeking demand of justice but with no result. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that this application has been filed against the order dated 13.7.93, therefore, the same is hopelessly barred by limitation as the husband of the applicant during his life time did not challenge the said order. It is also stated that consequent of the judgment dated 27.3.92, the provisional pension granted to Sh.U.K.Panjwani was withdrawn vide order dated 13.7.93 under Rule 8(1)(b) of the CCS (Pension) Rules, 1972 as only sentence was suspended and not the conviction. Thereafter Sh.U.K.Panjwani died during the pendency of appeal, therefore, the applicant is not entitled to arrears of pension as well as family pension. It is stated that the representation dated 12.4.99, is not traceable in the office of the answering respondents but it is stated that the representation dated 12.4.99 is also having not merit, in view of the detailed reply and the O.A filed by the applicant having no merit is liable to be dismissed.

4. Rejoinder has also been filed reiterating the facts as stated in the O.A.

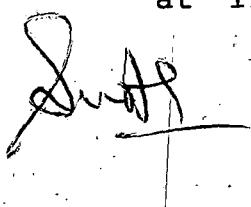
5. Heard the learned counsel for the parties and also perused the whole record.



6. It is not disputed that a provisional pension was granted to late Sh.U.K.Panjwani w.e.f. 1.9.85 but the same was withdrawn vide order dated 13.7.92 and the said order was never challenged by Sh.U.K.Panjwani during his life time and ultimately he died on 2.2.98. As per order passed by Hon'ble High Court on the application of suspension of sentence, it becomes abundantly clear that only the sentence was suspended and not the conviction and ultimately the appellant Sh.U.K.Panjwani died on 2.2.98; therefore, the appeal was abated. In view of the fact that the order of granting provisional pension was withdrawn by the competent authority vide its order dated 13.7.93 and the same was not challenged by Sh.U.K.Panjwani during his life time, therefore, I am of the considered opinion that the applicant is not entitled to arrears of pension during the period of the life time of Sh.U.K.Panjwani.

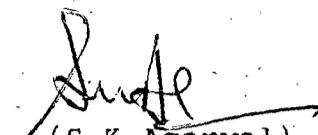
7. The applicant also claimed family pension for which it is stated that she has filed representation through her counsel on 12.4.99 but according to the respondents, the same is not traceable. The counsel for the applicant states that the applicant is ready to file a fresh representation for redressal of her grievances.

8. Therefore, it is ordered that in case the applicant files a representation regarding sanction of family pension to the respondents within 15 days from the date of passing of this order, the same may be decided/disposed of by a reasoned and speaking order by the respondents within a period of two months from the date of receipt of such representation, considering the grievance of the applicant sympathetically and according to rules. The applicant shall at liberty to approach the proper forum, if she feels



aggrieved by the disposal of such representation.

9. With the above directions, the O.A is disposed of accordingly with no order as to costs.



(S.K. Agarwal)

Member (J).