

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.625/05

Guwator, this this 22nd day of November, 2005.

C O R A M

HON'BLE SHRI MADAN MOHAN, JUDICIAL MEMBER

Sudesh Kumar Rai
S/o Late Shri N.K.Rai
R/o Jata Chapar Basti, Tahsil
Parasiya,
District Chhindwara (MP).

Applicant

(By advocate Shri Rajendra Shrivastava)

Versus

1. Union of India through
its Secretary
Department of Post
Dak Bhawan, New Delhi.
2. Chief Post Master General
M.P.Circle, Bhopal.
3. Superintendent of Post Offices
Chhindwara (MP).
4. Smt.Jamuna Bai Rai
W/o Late Shri N.K.Rai
Packer, Dak Bastu Bhandar
O/o Superintendent, Dak Bastu
Bhandar, Raipur Circle
Raipur (CG).

Respondents.

(By advocate Shri Manish Chaurasia)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the
following relief:

- (i) Direct respondents to pay half the family pension
every month to the applicant as per compromise
letter filed before the respondents.
2. The brief facts of the case are that the father of the
applicant Shri N.K.Rai who was Sub-Post Master under
respondent No.3, died on 19th July 1990. After his death,
Smt.Jamuna Bai-respondent No.4-, who is the step mother
of the applicant, was given an appointment on compassionate
ground. Applicant is sixty percent disabled person and is
unable to earn his livelihood independently. A written



compromise letter between applicant and his step mother was submitted before respondent No.3 at the time of compassionate appointment, by which it was decided that respondent No.4 will take compassionate appointment and the applicant will be given half family pension. As the family pension was not given to the applicant, he made a detailed representation dated 15.7.99. In reply to the representation, respondent No.3 issued a letter dated 12.10.99 by which certain information was sought. In compliance of the letter dated 12.10.99, the applicant submitted disability medical certificate issued by District Medical Board. However, no action has been taken by respondents to pay half the family pension to the applicant. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant is a 60% disabled person and unable to earn his livelihood. At the time of compassionate appointment, a compromise between the applicant and his step mother was reached by which it was agreed that the applicant would surrender his right of compassionate appointment in lieu of half the family pension. This compromise was acceded by the respondents. My attention is drawn to the certificate issued by the District Medical Board, Jabalpur dated 11.6.02 in which it is mentioned that the applicant is 60% handicapped person and is not in a position to earn his livelihood. Hence the applicant is entitled for half of family pension for his livelihood.

4. In the reply, the respondents have admitted that they have not paid half the family pension to the applicant. The matter has not been decided by the Director of Account (Postal) M.P.Bhopal because the applicant has not furnished the requisite information asked for. The applicant could not



furnish the medical certificate and other information. Hence his case has not been decided by the Audit Office, Bhopal.

5. After hearing learned counsel for both parties and carefully perusing the records, I find that the applicant is admittedly the son of the deceased employee and Smt. Jamuna Bai is the wife of the deceased employee and the step mother of the applicant. The applicant has submitted a medical certificate of his disability in which it is clearly mentioned that he is 60% handicapped person and is not in a position to earn his livelihood. It is argued on behalf of the respondents that the applicant should furnish the latest certificate as the earlier certificate dated 11.6.02 is more than 3 years old. According to sub rule 7 (b) of Rule 54 of CCS (Pension) Rules, it is provided that "where the deceased Government servant or pensioner is survived by a widow but has left behind eligible child or children from another wife who is not alive, the eligible child or children shall be entitled to the share of family pension which the mother would have received if she had been alive at the time of the death of the Government servant or pensioner." I have also perused an order passed by CAT, Mumbai Bench in OA No.984/99 dated 30th March 2001 reported in 2001 (2) ATJ 622 in which it is held that "Pension-Employee died-Applicant who was second wife of the deceased employee was given 50% of family pension-claims 100%-Denial on the ground that 50% of the family pension was given to the son of the first wife - Denial held justified." Admittedly, respondent No.4 is not the real mother of the applicant but is step mother.

6. Considering all facts and circumstances of the case, I am of the considered view that if the applicant submits



a fresh medical certificate to the respondents, the respondents shall consider the case of the applicant.

7. Accordingly, I direct the applicant to submit a fresh medical certificate from the Medical Board to the respondents and if he complies with this, the respondents are directed to consider the case of the applicant for his share of family pension according to rules, within a period of three months from the date of receipt of the medical certificate issued by the medical board in favour of the applicant.

(Madan Mohan)
Judicial Member

aa.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
परिमितिति अग्रे विता:-

(1) राधिका, जयलक्ष्मी एवं लक्ष्मी, जबलपुर

(2) आनंद, जबलपुर

(3) प्रकाश, जबलपुर

(4) वसुधा, जबलपुर

सूचना एवं आवश्यक कार्रवाई हेतु
25/11/05
उप रजिस्ट्रार

Rajendra Singh
M. Chandra

Issued
25-11-05