

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No. 362/2005.

Jaipur, this the 12th day of December, 2005.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

Vinod Kanwar
D/o Late Sh. N. S. Shekhawat,
Aged about 27 years,
R/o 20, Keshargarh,
Jaipur.

... Applicant.

By Advocate : Shri Amit Mathur.

Vs.

1. Union of India
Through Secretary, Ministry of Communication,
Department of Posts,
Dak Bhawan
New Delhi.
2. Chief Post Master General,
M. I. Road,
Jaipur.
3. Director,
Postal Accounts,
Tilak Nagar,
Jaipur.

... Respondents.

By Advocate : Mr. Tej Prakash Sharma.

: O R D E R (ORAL) :

The applicant has filed this OA thereby praying for the following reliefs :-

- (1) The original application preferred by the applicant may kindly be allowed and the respondents may be directed to release the family pension to the applicant.
- (2) Any other appropriate relief which this Hon'ble Court may feel proper and just in the facts and circumstances of the case be allowed in favour of the applicant.
- (3) Cost of the original application be awarded in favour of the humble applicant."

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2. The facts of the case are that the applicant is the eldest daughter of Late Shri Narain Singh Shekhawat, Ex-Chowkidar, who while working in the office of Director of Accounts (Postal) expired on 30.10.2000. After the death of Late Shri Narain Singh the family pension was given to ~~the~~ widow. It is a case of the applicant that the mother of the applicant also expired, as such, in terms of the Rule she is entitled to family pension, being eldest daughter of the deceased. It is further pleaded that the applicant is suffering from Heart disease, as such, in terms of CCS (Pension) Rules she is entitled for family pension, even after attaining the age of 25 years. The grievance of the applicant is that in that behalf she had made a request to the respondents, but the respondents refused to take her application. Accordingly, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. Notice of this application was given to the respondents. The fact that the applicant is the eldest daughter of Late Shri Narain Singh, Ex Chowkidar, is not disputed. However, the respondents have stated that they were not aware of the death of the mother of the applicant and they came to know about this fact only ~~at~~ after the issuance of the notice dated 2.8.2005 by this Tribunal in this OA which was received in the office of the respondents on 22.8.2005. Thus, the question of authorizing family pension to the applicant does not arise. The respondents have also stated that as per Proviso IV to Rule 54 (6) (iii) of CCS Pension Rule, 1972, in case of an

unmarried daughter, family pension is admissible until she attains the age of 25 years or until she gets married, provided that if any son or daughter of a Govt. servant is suffering from any disorder or disability of mind (including mentally retarded) or physically crippled or disabled, so as to render him/her unable to earn a living even after attaining the age of 25 years, the family pension shall be to such son or daughter for life subject to fulfilling the conditions mentioned below under the rule *ibid*. The respondents have further stated that since the claim of the applicant is that she is suffering from heart disease, thus before allowing the family pension for life to the applicant, it is the requirement of the rule that the appointing authority shall have to satisfy that the handicap is of such a nature so as to prevent him or her from earning his or her livelihood and same shall be evidenced by a certificate obtained from a Medical Officer not below the rank of Civil Surgeon setting out, as far as possible, the correct mental and physical condition of the son/daughter as per proviso IV of Rule 54 (6) (iii). The respondents have stated that the applicant has never applied to this office for family pension and never submitted the required certificate of Civil Surgeon as required under Rule 54 (6) (iii) of the Pension rules. As such, the family pension could not be paid to the applicant.

4. I have heard the Learned counsel for the parties and gone through the material placed on record.

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5. Since the respondents have also not disputed the claim of the applicant for the grant of family pension after the death of her mother who was receiving family pension after the death of her husband late Shri Narain Singh, Ex-Chowkidar, and the stand taken by the respondents, as can be seen from the reply affidavit, is that the ~~applicant~~ has neither applied for family pension, nor submitted the required certificate of Civil Surgeon, as such, the family pension could not be disbursed.

Learned Counsel for the applicant submits that her client will apply for the grant of family pension in prescribed Performa and also enclosed the required certificate of Civil Surgeon as required under Proviso IV of Rule 54 (6) (iii) of the CCS Pension Rules within a period of 15 days. In that eventuality, the respondents are directed to entertain the claim of the applicant for grant of family pension and decide the same within a period of four weeks from the date of receipt of such application from the applicant.

6. With these observations, the OA is disposed of with no order as to costs.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P. C./