

**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00429/2014

Date of Decision : 25.2.2015
Reserved on: 16.02.2015

CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER

Guru Devi D/o late Sh. Dharma Singh, r/o House No.340, Gali No.4,
Anand Vihar Colony, Goggriour Fatak, Karnal.

Applicant

Versus

1. Union of India through Secretary to Government of India, Ministry of Home Affairs, New Delhi.
2. National Dairy Research Institute, Karnal, through its Director.

Respondents

Present: Mr. Amit Kaith, proxy for Mr. I.P.S. Mangat, counsel for the applicant

Mr. R.K. Sharma, counsel for the respondents

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking direction to respondent no.2 to release the pension and pensionary benefits of Shri Dharam to the applicant.
2. Averment has been made in the OA that the father of the applicant was working in the office of NDRI, Karnal and he retired from the post of SS Attendant (T), G-II, NDRI on 31.10.1988. Sh. Dharma expired

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on 21.12.2000 and was survived by Smt. Phullo Devi, his widow and the applicant as his legal heirs. The husband of the applicant expired on 07.06.2010 while Smt. Phullo Devi expired on 18.11.2010. The mother of the applicant and the applicant were both dependent upon the pension of Sh. Dharma for their survival since the applicant started residing with her mother Smt. Phullo Devi after the death of her husband. It is further stated that the applicant is the only daughter born out of the wedlock of Sh. Dharma and Smt. Phullo Devi and hence is the only legal heir of Sh. Dharma and Smt. Phullo Devi. Hence she is entitled to receive the family pension after the death of Smt. Phullo Devi. The applicant served legal notice dated 11.04.2012 (Annexure A-1) in this regard, but the respondents had not released the family pension to the applicant. Hence this OA.

3. In the written statement filed on behalf of the respondents, it has been stated that after the death of Sh. Dharma on 21.12.2000, his widow Smt. Phullo Devi was paid the family pension and the applicant never staked any claim to the same. After the death of Smt. Phullo Devi, the family pension was stopped as per the rules. It has also been stated that in 1987 Sh. Dharma submitted the details of his family members in which he had shown Smt. Phullo Devi as his wife and six children of whom five were married and one Ms. Saroj was unmarried. Sh. Dharma had died on 21.12.2000 leaving his wife Smt. Phullo Devi as his legal heir and she was getting the family pension in respect of her husband. Since the father

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of the applicant had submitted the details of his family members at the time of his retirement in which he had mentioned his wife and six children, the contention of the applicant that she is the only legal heir of Smt. Phullo Devi is incorrect and as per the rules the applicant was not entitled to family pension in respect of her father after the death of her mother.

4. Arguments advanced by the learned counsel for the parties were heard when they reiterated the content of the OA and the written statement respectively.

5. It is noticed that the instructions regarding grant of family pension under Rule 54 of the CCS (Pension) Rules have been modified vide G.I., Dept. of Pen. & P.W., F.No.38/37/08-P&PW (A), dated the 2nd September, 2008 Paras 8.1 to 8.6, wherein definition of family for family pension reads as under:-

"Category-I

- (a) Widow or widower, up to the date of death or re-marriage, whichever is earlier;
- (b) Son / daughter (including widowed daughter), up to the date of his / her marriage / re-marriage or till the date he / she starts earning or till the age of 25 years, whichever is the earliest.

Category-II

- (c) Unmarried / Widowed / Divorced daughter, not covered by Category I above, up to the date of marriage / re-marriage or till the date she starts earning or up to the date of death, whichever is earliest.

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(d) Parents who were wholly dependent on the Government servant when he / she was alive, provided the deceased employee had left behind neither a widow nor a child.

Family pension to dependent parents unmarried / divorced / widowed daughter will continue till the date of death.

Family pension to unmarried / widowed / divorced daughters in Category II and dependent parents shall be payable only after the other eligible family members in Category I have ceased to be eligible to receive family pension and there is no disabled child to receive the family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him / her has become ineligible for grant of family pension in that category."

From the definition of 'Family' as above, it is evident therefore that a widowed daughter would fall within Category I as well as II above and hence the claim of the applicant is required to be considered in the light of the Circular dated 02.09.2008. Respondent no.2 is therefore directed to examine the claim of the applicant for family pension as the widowed daughter of Sh. Dharma in the light of the instructions operational after 02.09.2008. Such reconsideration may be completed within a period of two months of a certified copy of this order being served upon respondent no.2 and a reasoned and speaking order passed in the matter.

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(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

B. A. Agrawal
(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 25.2.2015
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