

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH****OA. 060/00222/2014****Chandigarh, this the 8th day of April, 2015**

CORAM:HON'BLE MRS.RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A.AGRAWAL, MEMBER(J)

...
Tripta Devi W/o Late Sh. Bhumi Dev, R/o 2431-A, Sector 20-C,
Chandigarh.

.....Applicant

BY ADVOCATE: SH. AMIT CHOPRA

VERSUS

1. Union of India through the Secretary, Government of India, Department of Pension and Pensioner's Welfare, New Delhi.
2. The Chandigarh Administration, Union Territory Chandigarh through its Secretary Engineer and Chief Engineer, Chandigarh Administration, Sector 9, Chandigarh.
3. Sub Divisional Engineer, M.C.P.H. Sub Divn. No. 1, Chandigarh.
4. The Commissioner, Municipal Corporation, Union Territory, Chandigarh.

.....Respondents

BY ADVOCATE: NONE FOR RESPDT.NO. 1.

SH. ARVIND MOUDGIL FOR RESPDT.S 2-4.

Arvind Moudgil

ORDER

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

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- "(ii) Issue an appropriate order quashing the memo dated 28.2.2014 (Annexure A-1) vide which the claim of the applicant for the grant of family pension has been rejected in a most illegal and arbitrary manner.
- (iii) Issuance of an appropriate order or direction directing the respondent No. 2 to 4 to grant the applicant all the pensionary benefits such as family pension, gratuity, leave encashment, earned leave, etc. as per the rules for which the applicant is legally entitled."

2. It has been stated in the OA that the husband of the applicant, one Sh. Bhumi Dev, was appointed on daily wage basis as Beldar by the respondents No. 2 and 3 in 1984. The services of the husband of the applicant were brought on work-charged established as a Beldar in regular pay scale of Rs. 400-600 w.e.f. 01.05.1985. Vide Notification dated 20.05.1996, the services of some staff working in the Engineering Department of Chandigarh Administration were transferred to Municipal Corporation, Chandigarh. In accordance with this Notification, the husband of the applicant joined MC Chandigarh as per joining report dated

As

27.5.1996 (Annexure A-4). The husband of the applicant was transferred from regular work charge cadre to regular cadre vide copy of order dated 18.6.2012 (Annexure A-6). Unfortunately, the husband of the applicant died on 31.8.2012 while in service leaving behind his wife, the applicant, and two children. On the date of his death, the husband of the applicant had about 27 years and eight months of service to his credit.

3. Immediately upon the death of her husband, the applicant approached the respondent department and made representation for the grant of family pension, gratuity and other pensionary benefits. The respondent asked the applicant to fill out all the necessary forms and submit the same. The applicant then filled the various forms and deposited the same with the respondents, for the release of family pension and other pensionary benefits. The respondents have made the applicant run from pillar to post on one pretext or the other, by raising frivolous objections to her claim. The respondent No. 2 asked the applicant to approach respondent no. 4 as her husabnd was their employee after the transfer of his services while respondent no. 4 asked the applicant to approach respondent No. 2. A copy of the memo

u —

dated 09.05.2013 issued by respondent No. 3 is annexed as Annexure A-8 to the OA. Hence this OA.

4. In the written statement filed on behalf of the respondents No. 2 & 3, the facts of the matter have not been disputed. However, it has been stated that since the death of Sh. Bhumi Devi, the husband of the applicant occurred while he was working in the Municipal Corporation, Chandigarh in work charge establishment, the responsibility to release the retiral benefits rested with MC and retiral benefits upto 31.5.1996 as applicable to work charge establishment will be transferred to MC, Chandigarh as and when the claim of the same is received from that office alongwith Service Book and other supporting documents.

5. In the written statement filed on behalf of respondents No. 3 & 4, it has been stated that the applicant has claimed the relief against the MC whereas the MC, Chandigarh, does not fall within the jurisdiction of this Tribunal. Hence the OA is not maintainable and deserved to be dismissed on this ground also. The Punjab Government's Instructions bearing No. 3/14/2011-3 FAAC/154 dated 23.02.2012 duly adopted by the Chandigarh Adminsitration as well as MC Chandigarh provide that the daily

Ne

wages/work charged workers whose services have been regularized on or after 1.1.2004 are covered under the New Defined Pension Contribution Scheme. The service of the husband of the applicant late Sh. Bhumi Dev, work charged Beldar, was regularized on 18.06.2012. Hence, the applicant is not entitled for Pensionary benefit from the answering respondents.

6. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant narrated the background of the matter and drew attention to letter dated 13.6.2006 (Annexure A-10) whereby directions had been issued by Joint Secretary, Personnel for Home Secretary, Chandigarh Administration, to Executive Engineer, C.P. Division No. 2(R) as follows:-

“I am directed to invite your attention to your letter No. Pan/Ch/Amend/Rules 20(5), dated 4.5.2006 on the subject mentioned above and to intimate that in view of the notification issued by the Government of India, Ministry of Home Affairs on 10.11.2005, all the charges on amount of retirement benefits sum or pension, Gratuity, Provident Fund etc. to the employees transferred from the Chandigarh administration to the Municipal Corporation, Chandigarh for the period the transferred employees served in the Corporation would be borne by the Chandigarh Administration. The employees who are retiring, who have expired while working with the Municipal Corporation, Chandigarh, their pension papers would be initiated by the Municipal Corporation authorities and then sent to the

12 —

concerned DDO of the Engineering Department, Union Territory, Chandigarh. Thereafter, the DO of the Engineering Department will submit the papers to the competent authority for necessary action or sanction."

He also referred to order of the Hon'ble High Court dated 31.8.2010 in CWP No. 2371 of 2010 titled Harbans Lal Vs. The State of Punjab and others wherein relief as sought by the applicant had been allowed to similarly situated persons. He stated that the liability for pension to employees transferred from Chandigarh Administration to the Municipal Corporation Chandigarh was that of the Chandigarh Administration as per letter dated 13.6.2006 and hence, the claim of the applicant merited positive consideration.

7. Learned counsel for the respondents fairly submitted that the matter could be disposed of with directions to the Municipal Corporation, Chandigarh to Chandigarh Administration to refer the family pension case of the applicant to the Chandigarh Administration and the matter would be processed by the Chandigarh Administration keeping in view the letter dated 13.6.2006 (Annexure A-10) and judicial pronouncements referred vide Annexures A-12 & A-13.

Ms —

8. Keeping in view the submissions made by the learned counsel, this OA is disposed of with directions to the Municipal Corporation, Chandigarh to prepare the documentation regarding release of the retiral benefits on account of the deceased employee Sh. Bhumi Dev, and forward the same to the Chandigarh Administration as early as possible. Action to release the death-cum-retiral benefits as due to the legal heirs of the deceased employee, may be completed within three months of a certified copy of this order being served upon the respondents. No costs.

**(RAJWANT SANDHU)
MEMBER(A)**

**(DR. BRAHM A.AGRAWAL)
MEMBER(J)**

Dated: April 8th, 2015.
ND*