

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.2572/2017

Order Reserved on: 13.02.2018

Pronounced on:17.04.2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Smt.Kanta, aged 44 years,
w/o Late Sh.Babu Lal,
R/o 1/7, Block No. 112,
LHMC Staff Quarter,
Panchkuiyan Road,
New Delhi.

... Applicant

(By Advocate: Mr. Yogesh Sharma)

VERSUS

1. Union of India through the Secretary,
Ministry of Health, Govt. of India,
Nirman Bhawan,
New Delhi.
2. The Director General,
Director General of Health Services,
Govt. of India, Nirman Bhawan,
New Delhi.
3. The Director,
Lady Harding Medical College and
Smt. Sucheta Kripalani Hospital,
New Delhi-1.

... Respondents

(By Advocate : Mr.Ranjan Tyagi)

ORDER

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, praying for the following relief:

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 20.4.2017 IAnn/A/1) declaring to the effect that the same is illegal and arbitrary and pass an order directing the respondents to grant the family pension, DCRG and all other benefits to the applicant in respect of Late Sh. Babu Lal, with interest @ 18%.”

2. The factual matrix of the case, as noticed from the records, is as under

2.1 The applicant is widow of late Shri Babu Lal, who died in harness while working as safaiwala in Lady Harding Medical College and Smt. Sucheta Kripalani Hospital (LHMC Hospital), New Delhi-respondent No.3. After his death, the applicant submitted a representation dated 16.01.2017 (Annexure A-2) to respondent No.3. The respondent No.2, vide impugned Annexure A-1 letter dated 20.04.2017 informed her as under:

“Madam,

I am to invite a reference to your application dated 16.01.2017 for payment of family pensionary benefits. In this regard, it is stated that as per CCS (Pension) Rules, family pensionary benefits will be paid on submission of Succession Certificate by the family members because there is no valid nomination/details of family available in the Service Book/Service record of the deceased employee i.e. Late Sh. Babu Lal S/o Sh. Chhiggan Lal, Ex. Safaiwala who was expired on 06.11.2016.

You are advised that a Succession Certificate may be obtained from the court and submit it to the Admn.I (pension Cell) for settlement of your family pension case.”

2.2 The applicant’s contention is that succession certificate is required only when there are more than one claimant for the family pension and other pensionary benefits and that in the present case except her there is no other claimant and hence insistence on succession certificate is unwarranted.

2.3 Her second contention is that in the CCS (Pension) Rules, 1972 there is no provision for obtaining succession certificate for grant of family pension and other retiral benefits.

2.3 As her request has not been considered by the respondents, she has filed the present OA, praying for the relief, as indicated in para-1 supra.

3. In response to the notices issued, the respondents entered appearance and filed reply in which the following important averments have been made:

i) Late Shri Babu Lal was appointed as safaiwala on 31.07.1997 and he died on 06.11.2016. During the scrutiny of his service records/service book, it was found that he has neither furnished details of his family nor has he made any nomination of the persons who would be entitled for receiving his retiral benefits. In the absence of such nomination, all surviving members of the family are entitled to receive equal

shares of such benefits in terms of the CCS (Pension) Rules, 1972.

ii) As per CCS (Leave) Rules, if a Government servant dies while in service, the cash equivalent of leave salary for both earned leave and half pay leave, if any, at the credit of the deceased Government servant on the date of his death, shall be paid to his family in the manner prescribed under Rule 39-C. Further as per Central Government Employees Group Insurance Scheme, 1980 when an employee dies without leaving a valid nomination, payment will be made only on the basis of a succession certificate issued by the competent court. Since the applicant's husband has not declared his family members nor has he made any nomination, hence payment can only be released on the basis of succession certificate issued by the competent court.

4. The applicant has filed rejoinder to the reply filed on behalf of the respondents in which, *inter alia*, it is stated that there is no provision in the CCS (Pension) Rules for submitting succession certificate for grant of family pension and that succession certificate is required only when there are more than one claimant for the family pension. It is stated that applicant is the only claimant for the family pension being legally wedded wife of late Shri Babu Lal, and as such she is

entitled for receiving the family pension and other retiral benefits.

5. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 13.02.2018. Arguments of Shri Yogesh Sharma, learned counsel for the applicant and that of Shri Ranjan Tyagi were heard.

6. I have considered the arguments of the learned counsel for the parties and also perused the pleadings. It is not in dispute that applicant is legally wedded wife of late Shri Babu Lal and that Shri Babu Lal has not declared his family details to the respondent-hospital nor has he made any nomination as to who should receive his retiral benefits in case of his death. Shri Babu Lal died in harness on 06.11.2016. The payment of family pension and death gratuity are governed by Rule 77 of the CCS (Pension) Rules, 1972, which reads as under:

“77. Obtaining of claims for family pension and [death gratuity]

- (1) Where the Head of Office has received an intimation about the death of a Government servant while in service, he shall ascertain whether any [death gratuity] or family pension or both is or are payable in respect of the deceased Government servant.”

7. This Rule clearly prescribes that in case of non-existence of any nomination, Head of Office is required to ascertain

about the person(s) to whom gratuity is to be paid. There is no insistence on a succession certificate under this rule. I notice from the pleadings that the respondents have been insisting on the succession certificate without discharging their statutory duties under this rule to make an enquiry and ascertain the person(s) eligible for receiving such benefits. The applicant, however, has been insisting that there is no other claimant other than her to the family pension and death gratuity. The respondents have also not mentioned anywhere as to their receiving any counter-claim for receiving such benefits from any other person.

8. Under the circumstances, I am of the view that insistence on succession certificate from the applicant by the respondents is uncalled for, for the reasons mentioned in the pre-para. The respondents are required to discharge their obligatory duties under Rules 54 and 77 of the CCS (Pension) Rules, 1972, to make an enquiry and ascertain the name(s) of the person(s) who is/are entitled to receive the family pension and death gratuity. I, therefore, dispose of the OA in the following terms:

i) Respondent No.3 shall make an enquiry with regard to person(s) eligible for receiving the family pension and death gratuity in terms of Rules 54 and 77 of the CCS

(Pension) Rules, 1972, within a period of four weeks from the date of receipt of a certified copy of this order.

ii) If respondent No.3, after making enquiry comes to a conclusion that there is no claimant other than the applicant, then shall sanction family pension and death gratuity to the applicant within 8 weeks thereafter.

9. No costs.

**(K.N. Shrivastava)
Member (A)**

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