

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**OA No.2687/2016
MA No.2328/2017**

Reserved on 30.08.2017
Pronounced on 05.09.2017

Hon'ble Ms.Praveen Mahajan, Member (A)

Smt. Neelam Sharma, aged 59 years,
W/o Late Shri Suraj Prakash Sharma
R/o New H.No.748 (Old House No.2)
Near Vikas Cable
Vill. Haidpur, Delhi-110088

... Applicant

(By Advocates: Mr. K.Venkataraman with Mr. A.K.Srivastava)

Versus

1. National Technical Research Organization,
Through its Chairman,
Govt. of India, Block-III
Old JNU Campus, New Delhi
 2. National Technical Research Organization,
Through its Director,
Govt. of India, Block-III
Old JNU Campus, New Delhi
- ... Respondents

(By Advocate: Mr. Gyanendra Singh)

O R D E R

The present OA has been filed under Section 19 of the
Administrative Tribunals Act, 1985 seeking the following reliefs:

- A) To declare that the non-payment of family pension by the respondent no.1 to 3 to the applicant being wife of late Shri Suraj Prakash Sharma is per se illegal and arbitrary.
- B) To issue appropriate directions to the respondents to forthwith pay the family pension to the applicant w.e.f. 11.04.2014 and continue to pay the family pension to the applicant as per the Rules.
- C) To issue appropriate directions to the respondent no. 1 to 3 to pay interest @ 12% p.a. on delayed payment of family pension till the actual payment of arrears of family pension.

- D) Any other relief deemed fit and proper may also be given to the applicant.

2. Brief facts of the case are that the applicant is the wife of the deceased Shri Suraj Prakash Sharma, Ex. Field Officer (Technical) of respondent no. 1 to 3, who retired on 31.03.2008. He was drawing regular pension. Subsequently, the husband of the applicant was also paid revised pension by respondent no.4 vide PPO No. 246500801909 w.e.f. January and February, 2009. Unfortunately, the husband of the applicant expired on 10.04.2014. This fact was informed to the respondents on 12.06.2014 by the son of the applicant for updating their records and for payment of family pension to the applicant, being widow of the deceased Shri Suraj Prakash Sharma. In the month of November, 2014, the applicant came to know that family record had not been updated. She was advised to submit the documents to the department to establish her relationship with the deceased. The same was submitted by the applicant in December, 2014. The applicant was verbally informed to approach CPAO for the purpose of family pension. On 19.01.2015, the applicant requested the NTRO to update the records including the change of address and pay family pension to the applicant (widow of the deceased) since she has no other source of income. Earlier to that, the applicant had filed an application before the Court of Administrative Civil Judge (ACJ) on 28.10.2014 praying for a Succession Certificate. The same was issued to her on 06.06.2015 by the Court of ACJ, Rohini in SCC No. 125/14. On 20.01.2016, the applicant submitted the

Succession Certificate to the respondents to show her legal entitlement. However, she was informed that the Succession Certificate is not valid for the purpose of grant of family pension since it was only with respect to debts and securities of the deceased. On 01.05.2015, the applicant issued a legal notice to the respondents to pay her family pension forthwith along with other benefits.

3. The respondents in their counter have stated that late Shri Suraj Prakash Sharma, who expired on 10.04.2014, had never mentioned the name of his wife and children in any of the nomination forms filled by him. Even in the pension papers, Shri Suraj Prakash Sharma had not filled their names. As such, the name of his wife was not reflected in the PPO for grant of family pension.

4. The Succession Certificate shown to be issued in favour of Smt. Neelam Sharma by the ACJ, Rohini, Delhi vide judgment dated 26.05.2015 is only in respect of receiving debts and securities lying in the name of late Shri Suraj Prakash Sharma at Indian Overseas Bank, CGO Complex, New Delhi as well as State Bank of India, CGO Complex, New Delhi. This fact was informed to Shri Anurag Kaushik, the son of the applicant who had approached the respondents for release of family pension in the name of his mother, Smt. Neelam Sharma. This was done vide NTRO letter No.IV(A)/16/363/2007-321 dated 20.01.2016 (Annexure R-2). In May, 2016, a legal notice under Section 80 CPC on behalf of applicant addressed to Director, NTRO, Senior Accounts Officer, Directorate of Accounts, NTRO and Senior Pay

& Accounts Officer, Central Pension Accounting Office, Ministry of Finance, Bhikaji Cama Place, New Delhi was received by the respondents. This was considered in consultation with the Ministry of Law & Justice, Department of Legal Affairs and it was conveyed to the advocate of the applicant vide Annexure R-3 letter dated 07.06.2016 that Succession Certificate granted by the Court of ACJ was not for family pension of the deceased and related only to release of two bank accounts of the deceased. He was requested to advise his client to submit Succession Certificate for grant of family pension to enable the respondents to take further action in this regard. Since Smt. Neelam Sharma has not submitted Succession Certificate for family pension from the designated Court, the respondents have rightly withheld her family pension. The OA accordingly merits rejection.

5. Heard both the learned counsels for some time and perused the material available on record.

6. Learned counsel for the applicant Mr. K. Venkataraman reiterated the submissions already made in his OA. He drew the attention of the Tribunal to the Succession Certificate granted in favour of the applicant Smt. Neelam Sharma by the Court of ACJ, Rohini, Delhi. He also submitted that the Succession Certificate categorically states that Smt. Neelam Sharma is legal heir of the deceased late Shri Suraj Prakash Sharma. Even though the Certificate is with regard to debts and securities lying in the name of the deceased, the fact remains that the applicant has been declared as legal heir by the Court. She cannot again be declared as such, for each and every account/ property of the

deceased once her claim has already been recognized judicially. The Court went into the details of her claim, and found her fit to receive debts and securities lying in the name of deceased late Shri Suraj Prakash Sharma. The very fact that the applicant has been empowered to receive some of the assets of the deceased, then, principally, this right cannot be denied to her with regard to other benefits, which would accrue to a legal heir of the deceased. He, therefore, argued that the applicant is rightfully entitled to family pension being the legally wedded wife of the deceased. In support of his arguments, he submitted copy of judgment of the Hon'ble Delhi High Court in the case of **Virender Vs. State**, 2015 VII AD (DELHI) 680, relevant portion whereof reads as follows :-

"2. We have heard learned counsel for the petitioners and learned counsel for the respondent. The Tribunal has threadbare gone into all these issues and we need not reiterate the reasoning given by the Tribunal in our order. The Tribunal has also placed reliance on the judgment of the Apex Court in G.L. Bhatia v. Union of India, 1999 (5) SCC 237 where in almost identical facts the employee had not disclosed the name of her husband on the relevant form and after the death of the employee the husband had approached the employer claiming his entitlement to the grant of family pension and the view taken by the Apex Court was that the rights of the parties are governed by the statutory provision and the individual lapse in not nominating his/her family member as nominee do not deprive the nominee to the grant of the family pension. The relevant para of the said judgment although referred to in the impugned order is again reproduced here for better appreciation:-

"2. The sole question that arises for consideration in this appeal is whether the appellant, who happens to be the husband of the deceased government servant, is entitled to Page 3 of 5 family pension under the provisions of the Central Civil Services (Pension) Rules (for short "the rules") notwithstanding the fact that the deceased wife in her nomination did not include the husband. The forums below have taken the view agreeing with the authorities that since the nomination was not in favour of the husband and the

husband was staying separate from the wife, the husband would not be entitled to family pension in question. This view cannot be sustained in view of the provisions contained in Rule 54 of the rules. It is too well settled that where rights of the parties are governed by statutory provisions, the individual nomination contrary to the statute will not operate.

3. Under Rule 54 sub-rule (14(b)(i) the expression "family" has been defined thus:

"54. (14(b)(i) Wife in the case of a male government servant, or husband in the case of a female government servant...."

4. Sub-Rule (8(r) of Rule 54 states that:

"54. (8(r) If a deceased government servant or pensioner leaves behind a widow or widower, the family pension shall become payable to the widow or widower, failing which to the eligible child."

5. In the light of the aforesaid provisions and there being no divorce between the husband and wife even though they might be staying separately, the appellant husband would be entitled to the family pension in terms of the rules as noted aforesaid and the authorities, therefore, committed error in not granting family pension to the appellant relying upon the nomination made by the deceased wife of the appellant. The impugned order is, accordingly, set aside and this appeal stands allowed."

7. In view of the order of the ACJ, Rohini, he vehemently argued, that merely because the name of the applicant does not figure in the pension papers, it does not belie the fact that she is the widow of the deceased, and thus, entitled to all pecuniary benefits after his death.

8. Shri Gyanendra Singh, learned counsel appearing for the respondents stated that late Shri Suraj Prakash Sharma had not mentioned the name of his wife and children in any of the nomination forms. Nor were their names mentioned in the pension papers. Since the name of the wife was not reflected in

the PPO for grant of family pension, she has rightly been denied pension. He also stated that Succession Certificate under the Indian Succession Act granted by the Court of Shri Gagandeep Singh, ACJ, North-West, Rohini, Delhi in the name of Smt. Neelam Sharma is very specific. She has been declared the legal heir only in respect of debts and securities lying in the name of late Sh. Suraj Prakash Sharma in Indian Overseas Bank, CGO Complex, New Delhi as well as State Bank of India, CGO Complex, New Delhi on furnishing a Security Bond of a particular value. The Succession Certificate, he contended, is not for family pension or any other purpose. Hence, the same cannot be granted to the applicant.

9. I have gone through the facts of the case and I find that the view taken by the respondents is extremely narrow. It is not their case that the applicant is not the legally wedded wife of the deceased employee. It is undisputed from the papers on record that there is no other nominee named by late Sh. Suraj Prakash Sharma for grant of family pension.

10. In normal course, the respondents would be well within their rights to ask for Succession Certificate for the purpose of grant of family pension if the nomination does not mention any nominee, even if it be the wife or the children of the deceased. The present case, however, can be differentiated from the normal one since in this case the applicant is already in possession of a legal heir Succession Certificate from the Court of ACJ, Rohini, Delhi. Even though the order of the ACJ is specifically with regard to debts and securities lying in the name

of the deceased, the fact remains that the applicant has been granted the legal heir certificate after due verification of her claim by the Hon'ble Court. Once, such a certificate is on record, then to ask the applicant to produce another such certificate, for the purpose of grant of family pension to her by the respondents, in my view, reflects their cussed and non-thinking attitude. The sanctity of the Succession Certificate issued by Court of an ACJ, once granted, for whatever purpose, cannot be diluted by irrelevant queries. With this background, I am of the view that the applicant, who in this case is the wife of the deceased employee has been declared as his legal heir, cannot be denied her rightful claim for family pension. My view gets some strength from the decision of the Calcutta Bench of this Tribunal in **Smt. Gopa Mazumdar vs. Union of India & Ors.** [OA No.1164/1997 decided on 9th June, 1999] wherein it has been recorded as follows:-

"7. Mr. S.P. Bhattacharyya, learned advocate has strongly relied on the judgment passed, in the case of Violet Issaac and Ors. v. Union of India and Ors., reported in 1991(1) SCC 725, where the **Hon'ble Supreme Court has decided that only designated persons i.e., the widow and unmarried children of the deceased employee are entitled to family pension under the rules.** He also relied on another decision passed by the Ernakulam Bench of this Tribunal in the case of T. Kuppammal v. Divisional Personnel Officer, Southern Railway, Palghat, 1994(27) ATC 328. This decision was based on the judgment of Violet Issaac and Ors. v. Union of India and Ors., referred to above. Mr. Bhattacharyya, therefore, submits that **in view of the judgment passed in the case of Violet Issaac (supra), the applicant is not required to produce the succession certificate, as asked for by the respondents and the respondents be thus directed to make all payments of the settlement dues of her husband as his legally married wife.** So, the letter dated 18.6.1997 (Annexure/A1) is arbitrary and illegal and is liable to be quashed."

11. Since it is an admitted fact that the applicant is the legally wedded wife of the deceased employee, which fact is clear from the Succession Certificate submitted by the applicant, though it does not pertain to family pension, the respondents cannot compel the applicant to submit another Succession Certificate, specific to her claim for family pension, to deny her legitimate claim. The same would be redundant, logically, in view of the Succession Certificate already on record. The same view also finds strength from the decision of the Hon'ble Supreme Court in **Violet Issaac and Ors. V. Union of India & Ors.**, referred to in para 7 of the order of the Tribunal in Smt. Gopa Mazumdar (supra).

12. In view of the facts and circumstances of the case, I find merit in the OA and allow the same with a direction to the respondents to calculate the family pension w.e.f. 11.04.2014 and release the same to the applicant within a period of three months from the date of receipt of certified copy of this order and continue to pay the same as per rules. The applicant shall also be entitled to the interest admissible under GPF rates from the date on which the payment of family pension is due till the actual date of payment. No costs.

(Praveen Mahajan)
Member (A)

/dkm/