

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.3753/2016

Friday, this the 6th October 2017

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

Ms. Premwati d/o late Pritam Singh
Age 49 years
D-45, WZ-84A, Raj Nagar, IInd
Opposite Sonu Public School
Palam Colony, New Delhi- 79

..Applicant

(Mr. B K Barera, Advocate)

Versus

1. Union of India through
Through Secretary
Ministry of Defence
South Block, New Delhi – 1
2. The Commandant
Central Vehicle Depot
Delhi Cantt-10
3. Sr. Accounts Officer (P)
o/o PCDA (Pension)
GI-Civil, Draupdi Ghat
Allahabad – 211014 (UP)

..Respondents

(Mr. Ashok Kumar, Advocate)

O R D E R (ORAL)

The applicant is a daughter of late Pritam Singh, who was working under the Commandant, Central Vehicle Depot, Delhi Cantt. – respondent No.2. He died in harness on 27.05.1975. Consequently, the widow of late Pritam Singh (mother of applicant) was sanctioned family pension by respondent No.2, which she continued to get till she died on 02.12.2014. The applicant was married to Mr. S Jai Kumar on 09.12.1979, who was

employed in Airports Authority of India. As the marital relationship of the applicant with her husband got strained, she filed a divorce petition (HMA No.672/12) on 12.09.2012 in the Court of District & Principal Judge, South-West District, Family Court, Dwarka, New Delhi. The divorce was granted by the court vide its judgment dated 27.01.2016.

2. The applicant has mentioned in paragraph 4.4 of the O.A. that she was living with her mother as her husband was not supporting her financially and she was not having any separate source of income. It is further stated that she had filed a petition under Section 125 Cr.PC for grant of maintenance and that her husband, although had given an undertaking in the court that half of his salary be given to her as he is earning employee of the Airports Authority of India, but that was never paid to her. Her husband retired from the service of Airports Authority of India in the year 2008. He does not get any pension, as his job was not pensionable. Even when her husband was in service, the applicant never received half of his salary as maintenance allowance, as stated by her in paragraph 4.5 of the O.A.

3. The applicant had approached respondent No.2 for grant of family pension to her after the death of her mother, but the same has been declined vide Annexure A-1 order dated 01.06.2016. The order reads thus:-

“During the course of audit of the claim it is found that the order for divorced has been issued by Court of Law on 27/01/2016. It means divorced will be treated w.e.f. 27/01/2016.

In this connection, please refer to Govt. of India, Min. of Personnel, P.G. & Pension, Deptt. of P & PW letter No.1/13/09-P&PW (E) dated – 11/09/2013, vide which it has been clarified that divorced daughters who has divorced with her husband after the death of

parents, are not dependent on her parents and they are not entitled for family pension of divorced daughter.

There is no description of customary divorce in our CCS (Pension) Rule. The effective date of divorce is that, on which the Court of Law has issued the order and in the order, Court has effected the divorce w.e.f. the date of order, which is 27/01/2016.

In the present case father of claimant was died on 27/05/1975, mother of claimant was died on 02/12/2014, and divorce of claimant held on 27/01/2016, it means after the death of parents. Therefore she is not dependent on her father and also not entitled for family pension.

All the documents are returned herewith unactioned for your records.”

4. As could be seen from Annexure A-1 order, the sole basis on which family pension was declined to the applicant was that the divorce decree in her case was issued only on 27.01.2016 before which both parents had died, and thus it was concluded in the order that the applicant was not dependent on her parents, hence not entitled for family pension.

5. Learned counsel for applicant placed on record a copy of O.M. dated 19.07.2017 issued by the Ministry of Personnel, P.G. & Pensions, Department of Pension & Pensioners' Welfare, New Delhi, to say that the issue of grant of family pension to divorced daughters has been re-visited by the Government and it has been clarified that the divorced daughter is entitled for family pension in case the divorce petition was filed by the daughter in the competent court during the life time of one of the parents.

6. I have gone through the said O.M. dated 19.07.2017. The relevant part of this O.M. is extracted hereinbelow:-

“5. This department has been receiving grievances from various quarters that the divorce proceedings are a long drawn procedure

which take many years before attaining finality. There are many cases in which the divorce proceedings of a daughter of a Government employee/pensioner had been instituted in the competent court during the life time of one or both of them but none of them was alive by the time the decree of divorce was granted by the competent authority.

6. The matter has been examined in this department in consultation with Department of Expenditure and it has been decided to grant family pension to a divorced daughter in such cases where the divorce proceedings had been filed in a competent court during the life-time of the employee/pensioner or his/her spouse but divorce took place after their death – provided the claimant fulfils all other conditions for grant of family pension under rule 54 of the CCS (Pension) Rules, 1972. In such cases, the family pension will commence from the date of divorce.”

Mr. B K Barera, therefore, argued that in terms of the said O.M., the applicant is entitled to grant of family pension.

7. Mr. Ashok Kumar, learned counsel for respondents fairly submitted that let the applicant file a fresh representation before respondent No.2 in the light of aforesaid O.M. dated 19.07.2017, which will be given due consideration by said respondent as per law.

8. In view of above, I dispose of this O.A. in the following terms:-

- (a) The applicant shall make a fresh representation before respondent No.2 in the light of aforesaid O.M. dated 19.07.2017 in regard to her claim for family pension within a period of two weeks from the date of receipt of a copy of this order.
- (b) Respondent No.2 is directed to consider and decide the representation of the applicant within three months thereafter by passing a reasoned and speaking order.

(c) The applicant shall have liberty to take appropriate remedial measures, as available to her, in case she remains dissatisfied with the order to be passed by respondent No.2 on her representation.

No order as to costs.

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

October 6, 2017
/sunil/