

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 4089/2017

Reserved on : 23.11.2017
Pronounced on : 28.11.2017

HON'BLE MR. V. AJAY KUMAR, MEMBER (J)

Ms. Anita Rani,
Aged 36 years,
D/o Shri Devi Singh,
R/o 161, Shivram Puram,
Rohta Road, Meerut-250002. .. Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India,
Through it's Secretary,
Ministry of Defence,
South Block, New Delhi.
2. The Controller General of Defence Accounts,
Ulan Batar Road, Palam,
Delhi Cantt.-110010.
3. The PCDA (R&D),
Office of the PCDA (R&D),
West Block-V, R.K. Puram,
New Delhi-110066.
4. Shri Baljit Singh Siddhu,
Ex-Senior Auditor,
R/o D-49/1B1/E, Janta Coloney,
Subhash Park, Jafra Bad, Shahdara, Delhi
Permanent Add.: 101, New Ashokpuri,
Kankar Kheda, Pipal Wali Gali,
Meerut (UP)-250001. .. Respondents

ORDER

The brief facts as narrated in the O.A. are that the applicant was married with one Shri Akhil, who is the son of the 4th respondent, i.e. Shri Baljit Singh Siddhu, on 25.02.2004. After the marriage, the husband of the applicant and his parents were torturing the applicant and treating her with cruelty and her in-laws have been demanding dowry, now and again, and feeling aggrieved and victimised, she lodged a complaint on 26.05.2004 against her husband, Shri Akhil, her father-in-law, who is the 4th respondent, Shri Baljit Singh Siddhu and her mother-in-law, Smt. Pushpa Devi, under Sections 498A, 323, 504, 506 of IPC and under Section 3/4 of Dowry Prohibition Act in the Women Police Station, Meerut. In pursuance of the said FIR, all the said three accused were convicted by the Chief Judicial Magistrate, Meerut vide judgment dated 10.09.2013. In view of the conviction of the 4th respondent, who is the father-in-law of the applicant, the respondents vide order dated 25.08.2014 removed the 4th respondent from service, however, sanctioned Compensation Pension under Rule 41 of the CCS (Pension) Rules, 1972. The 4th respondent preferred an appeal against the order of removal but the said appeal was dismissed vide order dated 20.04.2015 of the respondents. The 4th respondent against his conviction preferred a criminal appeal before the Additional Session Judge, Meerut vide

Criminal Appeal No. 286/2013, wherein he was acquitted vide judgment dated 12.06.2015.

2. The 4th respondent filed O.A. No.2752/2015 before this Tribunal seeking his reinstatement which was disposed of at the admission stage on 29.07.2015 by directing the respondents to consider his representation. Against the acquittal of the 4th respondent, the applicant filed a Criminal Appeal under Section 372 Cr.PC before the Hon'ble High Court of Allahabad and the same was admitted and pending on the file of the Hon'ble High Court.

3. The applicant submits that though this Tribunal has not given any direction in O.A. No.2752/2015 for reinstatement of the applicant, the respondents have approved his request for voluntary retirement and to release the consequential retiral benefits though the applicant through her letters and legal notice informed them about the pendency of the Criminal Appeal No.3076 of 2015 filed by her against the acquittal of the 4th respondent. Accordingly, she filed the present O.A. seeking the following relief(s):

- "(i) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents as illegal and arbitrary in approving the voluntary retirement of Respondent No.4 wef 31/08/2017 despite knowing the fact that the judicial proceedings are pending against Respondent No.4.
- (ii) That the Hon'ble Tribunal may graciously be pleased to pass an order declaring to the effect that the judicial proceedings are deemed to be pending against the

Respondent No.4 before his voluntary retirement because of the pendency of Criminal Appeal No.3076/2015 before Hon'ble High Court of Allahabad in terms of Rule-69 and Rule 9(4) of CCS (Pension) Rules, 1972.

- (iii) That the Hon'ble Tribunal may graciously be pleased to pass an order directing the official respondents to pass an order in disbursement of pensionary benefits of Respondent No.4 by treating him like an employee against whom the Judicial Proceedings are deemed to be pending.
- (iv) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

4. The aforesaid narration indicates that the applicant is neither a civil servant nor claiming any benefits of any civil servant in her capacity as a legal heir or legal representative of that civil servant. On the other hand, the applicant, an estranged daughter-in-law of a civil servant, filed the O.A. seeking a direction to the employer, i.e. Govt. of India, not to approve the request of its employee, i.e. a civil servant.

5. Rules 9(4) and 69 of the CCS (Pension) Rules, 1972 read as under:

“9. Right of President to withhold or withdraw pension

xxx xxx xxx

(4) In the case of Government servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued under sub-rule (2), a provisional pension as provided in Rule 69 shall be sanctioned.

xxx xxx xxx xxx xxx

69. Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of a Government servant referred to in sub-rule (4) of Rule 9, the Accounts Officer shall authorize the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under suspension.

(a) The provisional pension shall be authorized by the Accounts Officer during the period commencing from the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon :

Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, for imposing any of the penalties specified in Clauses (i), (ii) and (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorized to be paid to the Government servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.”

6. The aforesaid rules provides for certain mechanism for the civil servant and to his employer to act in a particular manner under certain circumstances, but neither of these rules confer any right on the applicant, an estranged daughter-in-law of a civil servant, for seeking a direction to the employer for not granting certain benefits to a civil servant.

7. The learned counsel for the applicant miserably failed to show how the claim of the applicant can be enforced in terms of Rules 9(4) and 69 of the CCS (Pension) Rules, 1972 or under any other provision of any other law.

8. In the circumstances and for the aforesaid reasons, the O.A. is dismissed. No order as to costs.

**(V. Ajay Kumar)
Member (J)**

/Jyoti /