

Central Administrative Tribunal  
Principal Bench: New Delhi

**OA No.4140/2014**

Reserved on: 02.11.2016  
Pronounced on: 04.11.2016

**Hon'ble Dr. B. K. Sinha, Member (A)**

Sunita (Age about 40 years)  
w/o late Sh. Chandra Pal  
R/o H.No.28/356,  
Tilokpuri, Delhi. ...Applicant

(By Advocate: Sh. Surinder Kumar Bhasin)

Versus

1. Union of India through  
Secretary, Govt. of India,  
Ministry of Health & Family Welfare,  
New Delhi.
2. The Medical Superintendent,  
Office of the Medical Superintendent,  
Safdarjang Hospital,  
New Delhi. ...Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

**O R D E R**

The applicant, who has filed the instant Original Application under Section 19 of the Administrative Tribunals Act, 1985, is aggrieved by non-consideration for compassionate appointment and withholding of pension and other retiral benefits due to her being the widow of the deceased employee Chandra Pal.

2. The applicant has prayed for the following relief(s):-

*"(i) To direct the respondents to release the death cum retiral benefits to the applicant with reasonable interest for delayed payment.*

- (ii) *To direct the respondents to consider the claim of compassionate appointment to the applicant appreciating the penury & indigent condition of the applicant.*
- (iii) *To direct the respondents to produce the relevant records of the case for proper adjudication.*
- (iv) *To award exemplary cost on the respondent for causing undue harassment.*
- (v) *To pass any other order(s) which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case."*

3. The facts of the case, briefly stated, are that the deceased husband of the applicant was appointed as Nursing Attendant in the respondent organization w.e.f. 04.01.1991 and was granted *ad hoc* status w.e.f. 30.12.1991. He was regularized w.e.f. 28.10.1992. He was imposed a penalty of compulsory retirement on 27.07.2005 for chronic absenteeism. The husband of the applicant expired on 18.06.2014 leaving behind him the applicant (wife), two marriageable daughters and a minor son. Thereafter, the applicant made several representations to the respondents requesting for release of pension and other retiral dues and to consider her for compassionate appointment (Annexure A-1). The applicant further submits that she has no house or landed property and has been reduced to a state of indigence on account of death of the only bread winner. She has also refuted the argument of the respondents that the deceased employee was having gross

period of service only of 13 years 6 months and 28 days out of which 3 years 8 months and 27 days were spent on EOL. The applicant has argued that the period spent on ad hoc appointment is also to be reckoned for the purposes of pensionary benefits. In proof of her legitimacy as a wife of the deceased employee, the applicant has relied upon a copy of the CGHS Card bearing No. 407798 which had been issued on 07.02.2005 wherein she had been shown as wife of the deceased employee along with Jyoti & Shalu as daughters and one Rahul born on 20.08.2000 as son.

4. The learned counsel for the applicant submits that though one Asha, who has admittedly been listed as wife of the deceased employee in his nomination form and had two daughters born of her in conjugal relationship, but she had deserted the deceased employee and her daughters have no recollection of their mother. It has also been submitted that even extra ordinary service should be counted towards pensionary purpose as per the decision of the Hon'ble Supreme Court but no decision has ever been produced in support of the afore contention.

5. The learned counsel for the respondents submits that the applicant has no *locus standi* to file the present OA as in the nomination form one Asha has been shown as legitimately wedded wife of the deceased employee and not

the applicant. Moreover, no correction in the nomination form has ever been made thereafter. The respondents have also submitted that the CGHS Card, on which much reliance has been placed by the applicant, is fake one as another CGHS Card bearing No.008663, photocopy of which is placed at Annexure R-6 at page 54, indicates that Asha was the wedded wife and Jyoti and Shalu were the daughters of the deceased employee but there is no mention of any son named Rahul. Therefore, it appears that the CGHS Card on which the applicant has placed reliance has been fraudulently obtained. The respondents further submitted that qualifying service of the deceased employee was only 9 years 10 months and 01 day and, therefore, the applicant has no entitlement to pension in terms of Rule 49 (2) of the CCS (Pension) Rules, 1972. The respondents further submit that an amount of Rs.35,710/- is outstanding against the applicant and several notices have been issued to deposit the same so that the DCRG/pensionary benefits of the deceased employee could be settled but till date the outstanding amount has not been deposited.

6. The learned counsel for the respondents strongly argued that the only two prayers have been made by the applicant i.e. release of DCRG and retiral benefits as well as grant of compassionate appointment. The applicant, not

being the legally wedded wife of the deceased employee, is not entitled to any of the relief(s) prayed for. The learned counsel for the respondents strongly submitted that the instant OA is not maintainable and the same be dismissed.

7. A rejoinder has been filed by the applicant reiterating submissions made by her in the OA. It has, however, been stated that the deceased husband of the applicant had lost his CGHS Card No.008663 in a bus for which he had lodged an FIR with Vinay Nagar Police Station on 22.07.2000 and the respondents have relied upon the said lost document. No satisfactory explanation has been forthcoming as to how a CGHS Card came to be issued to the deceased employee showing the applicant as his wife, two daughters and son Rahul. It has also been submitted that the respondents have not corroborated their contention with record of the hospital and that of nomination relied upon by them and the fact that the nomination existing in their records is not a valid nomination since the deceased employee was married to the applicant and had begotten son Rahul from the same.

8. I have carefully gone through the pleadings of the parties as also the documents so adduced and the law citations relied upon. I have also patiently heard the oral submissions made on either side by their respective learned

counsels. The following issues are germane to a decision in this case:-

- (1) *Whether the applicant has a locus standi to challenge the order of the respondents being legitimately wedded wife of the deceased employee?*
- (2) *If so, whether the deceased employee fulfils the conditions of period of qualifying service in order to get pension?*
- (3) *Whether the deceased employee was entitled to pension?*
- (4) *What relief, if any, could be granted to the applicant?*

9. I take up the first issue regarding the claim of the applicant to be a legally wedded wife of the deceased employee. I find that the nomination form bears the name of Asha Devi and her two children namely Jyoti and Shalu as nominees entitled for pensionary and post retiral dues of the deceased employee. It has not been changed at any point of time. I also find that the CGHS Card bearing no.008663 mentions the name of Asha Devi and two female children named above and not of the applicant or her so called son Rahul. I further find that there is a copy of the voter card issued in the name of applicant on 20.10.2008 (page 68)

and the Performance Profile of Rahul wherein the name of deceased employee is shown as the father and of the applicant as mother. However, in view of the entries in the nomination form and the CGHS Card No.008663 issued to the deceased employee showing the name of Asha Devi his wife get better of the documents produced by the applicant. Therefore, the applicant is required to produce either a succession certificate or a certificate from the competent revenue official in her favour.

10. In view of the above discussion, I am of the considered opinion that *locus standi* of the applicant does not stand established and, hence, the OA fails on this ground alone. I order accordingly. There shall be no order as to costs. However, I leave the other issues open being not relevant in face of the preliminary findings returned above.

**(Dr. B.K. Sinha)**  
Member (A)

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