

**Central Administrative Tribunal
Principal Bench**

OA No.1004/2016

New Delhi, this the 1st day of August, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

Miss Anju Bisaria,
D/o Late Shri S.P. Bisaria, (Tax Research Asst.),
R/o H.No.202, Natraj Apartments, 67,
I.P. Extension, Delhi-110092.

...Applicant

(By Advocate : Shri P.C. Chandra)

Versus

1. Union of India, through,
The Secretary, Revenue,
Ministry of Finance,
North Block, New Delhi.
2. Central Board of Direct Taxes,
Through its Chairman,
North Block, New Delhi.
3. Zonal Accounts Officer,
Z.A.O., C.B.D.T.,
N. Block, Vikas Bhawan,
Indraprasth Estate,
New Delhi-110002.
4. The Director,
Directorate of Income Tax (PR,PP&OL),
6th floor, Mayur Bhawan,
Connaught Circus,
New Delhi-110001.

...Respondents

(By Advocate : Shri R.K. Sharma)

ORDER (ORAL)

This OA has been filed by the applicant praying for the following reliefs :-

- “i) Set aside the order/memo dated 21-02-2014 and memo dated 05-02-2016 consequent upon which the applicant has suffered denial of payment of family pension benefit, and hold that applicant is bona fide dependent on her late father, S.P.Bisaria.
- ii) Direct the respondents to release the amount of family pension, and other benefits without any cut and deduction in the same; along with the admissible interest as per law;
- iii) Direct the respondents to release the withheld arrears of family pension amounting to Rs.3,49,390/- (Rs. Three lacs forty nine thousands and three hundred ninety only) up to 31-10-2014, with admissible interest as per law, and further calculate arrears up to date and release the same with interest as per law.
- iv) Hon’ble Tribunal may please award the cost of proceedings in favour of the applicant.
- v) Pass any other order/orders as this Hon’ble Tribunal may consider fit and proper in the facts and circumstances of the instant case.”

2. It is the case of the applicant that she had given an application to the respondents to award her family pension after the death of her father, Late Shri S.P. Bisaria, who was working on the post of Tax Research Assistant in the Income Tax Department, Government of India. After the death of her father, the present applicant requested the respondents that as a daughter of the late employee, who is unmarried and unemployed and who was entirely dependent

upon her father till the time of his death, she be allowed family pension. Accordingly, she filed all relevant documents/affidavits etc. In response to her application, the respondents sent her reply as per Annexure-A (page 20) which states as under :

“F.No.ZAO/CBDT/ND/PF-608/2013-14/10516

DATED:-21.02.2014

To,

The DDO,
DIT (PR, PP& OL),
Mayur Bhawan, New Delhi-110001.

Sub: Family Pension benefits in respect of Miss Anju Bisaria, un-married daughter of Late Shri S.P. Bisaria – reg.

Sir/Madam,

Please refer to your letter No.F.No.E-26(3)/PR, PP&OL/2013-14/2039 dated 25/10/2013. It is noticed that documents submitted by the applicant are not scrutinised by the department. As per affidavit submitted by the applicant Miss Anju Bisaria and her other blood relations, she is depended on her brother(s) and sister(s). Therefore, she is not dependent on her father. Family pension is admissible to the family member as per rule who is fully depended on the Govt. Servant/pensioner and has no source of income. If for any reason other than above the department sanctions the family pension to the applicant, the whole & sole responsibility will be of the department itself.”

3. After receipt of this reply, she again submitted her application. She has drawn attention to relevant part of office notings, along with her OA. The office notings show a report of her request submitted to the appropriate authority, but subsequent to this

note, final decision has been taken in this regard and no release of family pension for her as the dependent has been made. Vide Annexure-B of this OA, only the following communication was made:-

“F.No.E-26(3)/PR, PP&OL/2015-16/1516

Dated : 05.02.2016

To,

Miss Anju Bisaria,
D/o Late Shri S.P. Bisaria,
R/o H.No.202, Natraj Apartments,
67, I.P. Extension, Delhi-110092.

Madam,

**Subject : Family Pension for dependent Miss
Anju Bisaria D/o Late S.P. Bisaria.**

**Reference:Reminder regarding Family Pension
for Dependent dated 03/12/2015.**

In pursuance to ZAO, CBDT's letter F.No.ZAO/CBDT/N.D./PF-608/2013-14/10516 dated 21/02/2014 on the above mentioned subject, I am directed to convey that for future correspondence you may contact to the Competent Authority i.e. ZAO, CBDT, New Delhi.

Your affidavit dated 25th March, 2014 (in original) is returned back with this letter.”

4. Hence, it is prayed by the applicant that the authorities be directed to process and sanction her case for family pension, as per rules. She specially draws attention to the fact that the official records themselves show that she is entitled to family pension and,

in fact, the RTI reply supplied to her clearly show that entire calculation of family pension was done and the pension amount was also fixed, but despite this, the Department is dilly dallying on sanctioning the same.

5. The respondents in their reply are unable to show any reason as to how and why family pension has been denied. Learned counsel only said that her claim has already been refused for reasons as stated in their order dated 21.02.2014.

6. After hearing both parties and perusing the record, it is clear that the applicant had applied for family pension on the demise of her father Shri S.P. Bisaria and had sent an application addressed to the Director, Income Tax (PR, PP&OL), 6th Floor, Mayur Bhawan, Connaught Circus, New Delhi. After receipt of her application, she was asked to file affidavit, revised affidavit and undertaking etc. about her application and the same was done. The department has also verified these facts about her through noting of UDC Shri Raj Kumar Solanki on 14.08.2014, who also inquired these facts from two of her independent neighbours and he submitted his report to the department. After completing all the formalities, she was informed through a letter dated 25.08.2014 by Mrs. Vinay Bala Tandon, Addl. Asstt. Director/D.D.O., Dte. Of Income Tax (PRS & OL), Mayur Bhawan, Connaught Circus, New Delhi-1, that the

pension is about to be released with the approval of DIT (PR, PP & OL), but till date, she has not received the same.

7. From the above, it becomes clear that the case of the family pension has to be decided by the department at the earliest.

8. Quite clearly, there is a provision for dependent unmarried daughter to be considered for family pension, and accordingly, order dated 21.02.2014 passed by respondents is quashed. The respondents are directed to pass a detailed and speaking order in this regard within a period of 30 days from the date of receipt of a certified copy of this order. The applicant shall also be entitled to interest @ 8% for the period from when she was entitled to the pension and to the actual date of payment for the same.

9. Accordingly, the OA stands allowed. No costs.

(Nita Chowdhury)
Member (A)

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