

**Central Administrative Tribunal
Principal Bench**

OA-254/2018

New Delhi, this the 04th day of July, 2018

Hon'ble Mr. S.N. Terdal, Member (J)

Smt. Sulochana Devi, Aged About 53 years
W/o Late Shri Brahaspati Prasad Shukla
R/o 8/27, Gali No. 6, Brahampuri X-Block
Delhi – 110053.
Mobile No. 9999804585

....Applicant

(Through : Sh. L.K. Singh with Sh. Rajiv Sharma)

Versus

1. Union of India
Through the Secretary
Ministry of Communication
Department of posts, Dak Bhawan
New Delhi – 110001.
2. The Chief Post Master General
Delhi Circle, Meghdoot Bhawan
New Delhi – 110001.Respondents

(Through : Sh. R.K. Jain)

ORDER (ORAL)

Heard learned counsel for the applicant and the respondents.

Perused all the documents.

2. The short question arising in this case is that whether only because of non declaration by the retired employee in the pension papers regarding his marriage with the applicant after his retirement,

his wife is entitled for family pension or not. In earlier round of litigation also, the respondents disputed that the applicant is wife of the retired employee, Sh. Brahaspati Prasad Shukla. This Tribunal recorded that the applicant may approach Civil Court for establishing that she is the wife. The relevant part is extracted below:

“17. The Tribunal is required to deal with service matters as illustrated in Section 3 (q). Now the question arises when on the face of the facts the respondents have denied the relationship of the applicant with the deceased as husband and wife. Whether the same can be decided by this Tribunal or not. Since the respondents had not denied to release family pension in case applicants' submits sufficient proof with regard to her marital status of being wife of Late Sh. Shukla. Though applicant has referred to a judgment Central Administrative Tribunal, Jabalpur Bench (Supra). In that case the fact that the court had drawn a presumption against the applicant therein that she is living with a third person after the death of the Government employee and as she is the wife of the third person. She is not entitled to family pension. But in the present case as far as the rule position is concerned, there is no denial on the part of defendant to sanction the family pension to the wife of a Government employee who even married after retirement, but the facts remains that the said wife has to prove that she is the wife of the late Government servant and only then she becomes entitle for family pension. In this case since the factum of marriage is being denied by the respondents despite the fact that the respondents own department had conducted and enquiry which went in favour of the applicant, still the department was not satisfied and has not accepted the fact of marriage of the applicant with the deceased employee. So on these peculiar circumstances whether the applicant is the wife of the Late Government employee cannot be decided by this court. That has to be decided by the appropriate Civil Court and this issue of marriage is also covered under the definition of service matters.

18. So I find that at this stage that the OA is not maintainable till the applicant is entitled to get a declaration from a competent court to the effect that she is the wife of Late Sh. B.P. Shukla and only then she can claim family pension.”

3. The applicant filed a Suit bearing no. 1703/2006 and the Civil Court has declared that she is the legally wedded wife of the said employee. The respondents' department has filed an appeal challenging the said judgment and decree however, they could not secure any stay of the said judgment. Now, the counsel for the respondents vehemently and strenuously submits that as the deceased employee has not declared about his marriage with the applicant at any time during 16 years after his retirement, as such the applicant is not entitled for family pension. I am not convinced with the arguments of the learned counsel for the respondents.

4. In view of the facts and earlier order of this Tribunal referred to above, in the interest of justice, this OA is allowed. Respondents are directed to process and pay the family pension to the applicant as per rules from the date she is entitled. No costs.

**(S.N. Terdal)
Member (J)**

/ns/