

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

OA/021/00109/2017

Date of CAV : 04-09-2018

Date of Order : 04-10-2018

Between :

Smt. A. Rani W/o late Sri D.Kotesch,
D/o Late Smt.Atchamma,
Aged about 39 years, Oc : House wife,
R/o H.No.11-99, J.J.Nagar Colony,
Yapral, Secunderabad, Telangana State.

....Applicant

AND

1. Union of India, Rept by its Secretary,
Ministry of Defence, Sena Bhavan,
New Delhi – 110 011.

2. The Administrative Commandant,
StationHeadquarters, Telangana & Andhra Sub-Area,
Secunderabad – 500 015.

...Respondents

Counsel for the Applicant: Mr. G. Jayaprakash Babu

Counsel for the Respondents : Mr. M.VenkataSwamy, Addl. CGSC

CORAM :

THE HON'BLE MR.SWARUP KUMAR MISHRA, JUDICIAL MEMBER

(Order per Hon'ble Mr.Swarup Kumar Mishra, Judicial Member)

This application is filed under section 19 of the Administrative
Tribunals Act, 1985,

- (i) To declare the action of respondents in not paying family pension to the applicant as illegal, arbitrary and in violation of Article 14, 16 and 21 of the Constitution of India and contrary to Pension Rules.
- (ii) Consequently, direct the respondents to pay the family pension and arrears of pension from 2010 to till date along with interest @ 24% p.a along with costs and

(iii) Pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

2. The brief facts of the case are that, the applicant herein is the widowed daughter of the deceased government servant. Late Smt. Atchamma, the deceased government servant died on 06.09.2010 while in service. After the demise of the government servant, the applicant has been paid certain retirement benefits. Aggrieved by the payments of retiral benefits to the applicant, her brother filed OA No.1044/2012 seeking payment of terminal benefits and all other death benefits of the deceased government servant. The said OA was allowed on 05.10.2012 upon which the applicant filed Review Application No.31/2012 and the same was dismissed on 17.12.2012. WP No.26672/2013 was filed before the Hon'ble High Court at Hyderabad and the same was dismissed on 16.09.2013. Thereafter the applicant filed SLP (C) No.34965/2013 before the Hon'ble Apex Court and the same was also dismissed on 25.11.2013 with certain observations to file a Review Application before the Hon'ble High Court.

3. Pursuant to the orders of the Hon'ble Supreme Court, the applicant filed a Review Application vide WP.MP.No.13929/2015 in WP No.26672/2013 and the same is pending before the Hon'ble High Court. The relief sought and the issue involved in the WP is different and distinct. The applicant made representations in August, 2011, dt. 12.7.2015, 14.10.2015 and 21.12.2016 for grant of family pension. It is submitted that 2nd respondent filed a reply statement in OA No.1044/2012 stating that "the application of Smt.Rani to this office, her request for grant of family

pension is under process” and have also further held that as per CCS (Pension) Rules, Mr.Ravi is not entitled to family pension being over 25 years of age and employed. Smt.Rani as per her documents submitted, being widowed daughter is entitled for family pension. However, the respondents failed to consider the representations till date and failed to sanction the family pension, as such the applicant has suffered serious financial crisis in the absence of a bread earner in the family, after the demise of her husband and mother.

4. It is submitted that, according to Rule 54(6)(i) of CCS (Pension) Rules, a widow or widower upto the date of death or remarriage, whichever is earlier is entitled for family pension. Therefore, the applicant being a widowed daughter of late Smt.Atchamma is entitled for family pension. The petitioner has made her best efforts, since the year 2011 to till date, however, the respondents failed to consider the request and the representations of August, 2011, dt. 12.7.2015, 14.10.2015 and 21.12.2016 and have deprived the applicant of her family pension till date. Hence this application.

5. Though sufficient time has been granted, Respondents have not filed reply statement.

6. We have heard Mr.G.Jayaprakash Babu, learned counsel appearing for the applicant and Mr.M.Venkata Swamy, learned Standing Counsel appearing for the Respondents.

7. At the outset, it should be mentioned that the allegation between the applicant and her brother Mr.Ravi in OA No.1044/12 was disposed of 5.10.2012 was restricted to the claim towards payment of death benefits of Late Smt.Atchamma and for recovery of some amounts already paid to the applicant (who was the 2nd Respondents in the said case). In para-7 of the judgment dated 5.10.2012 passed by this Tribunal in the said OA it has been categorically mentioned as follows :

“7. As far as the family pension is concerned, the applicant never claimed the same as per the OA and the payment of the same to the 2nd respondent is not subject matter of the OA and perhaps, that would be paid in accordance with the rules. “

Therefore the subsequent disposal of the WP No.26672/2013 by the Hon’ble High Court and the disposal of SLP(C) No.34965/2013 by the Hon’ble Apex Court are not relevant for the purpose of considering as to whether the applicant in this case is entitled to family pension due to the death of her mother Smt.Atchamma. The Respondents have not preferred to file any reply in this case for the reasons best known to them. The learned counsel for the applicant had brought to the attention of this Tribunal to the averments made in para-4 of the reply affidavit filed by the 1st Respondent in OA No.1044/2011 wherein the 1st Respondent (who is also 1st Respondent in this case) had mentioned that :

“4. The grant of family pension to Smt. Rani is based on documents submitted by her which verify her marriage to Shri D. Kotesch and also the death certificate of Shri D. Kotesch (Both certificate att as Annx II for perusal). Based on documents submitted and application of Smt Rani to this office her request for grant of family pension is under process. Shri Ravi in his letter to this office has himself submitted that his sister is a widow with two daughters. As per CCS Pension rules Shri Ravi is not entitled to family pension beign over 25 yrs of age and employed. Smt Rani as per documents submitted being widowed daughter is entitled to family pension.”

8. The date of death of the husband of the applicant No.1 has not been mentioned by her in this OA. No death certificate in this regard has also been filed to show the date of her husband late D. Kotes. Therefore this Tribunal is not in a position to ascertain as to whether she is entitled to family pension due to the death of her mother. However, in view of the averments made by the 1st Respondent in the previous OA as quoted above and as the averment made by the applicant in her representations in the month of August, 2011, dated 12.7.2015, 20.10.2015 and 21.12.2016 have not been disposed of. In these circumstances, the Respondents are directed to consider the said representations of the applicant which have been filed as Annexures A-5 (pages 21 to 27 to OA) within a period of three months from the date of receipt of a copy of this order.

9. The applicant is also given liberty to produce all relevant materials before the 2nd Respondent who shall consider the same in accordance with law by passing a reasoned order and if necessary to take approval of the 1st Respondent in this regard. The OA is accordingly allowed. No order as to costs.

(SWARUP KUMAR MISHRA)
JUDICIAL MEMBER

Dated : 4th October, 2018.

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