

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00398/2017

Jabalpur, this Thursday, the 17th day of May, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Indirawati Rao Kapure, R/o House of Shri Baldeo Raj Dhooper,
Chungi Chouki behind Kanchghar Post Office, Jabalpur (M.P.)

-Applicant

(By Advocate – Shri H.R. Bharti)

V e r s u s

1. U.O.I through Secretary, M/o Defence, Defence Production,
South Block, New Delhi – 110001.

2. The General Manager, Ordinance Factory, Khamariya Jabalpur –
482005.

3. Chief Defence Account (CDA Pension) Draupadighat,
Allahabad (U.P.) - 211014

- Respondents

(By Advocate – Shri Surendra Pratap Singh)

(Date of reserving order : 25.04.2018)

O R D E R

By Ramesh Singh Thakur, JM.

This Original Application has been filed by the applicant
aggrieved by Annexure A-6 order dated 06.09.2016.

2. The applicant has sought for the following relief:

“8.1 That in view of above its therefore prayed before this Hon’ble Court may kindly be give direction to any authority for huze inquiry so that whatever is veracity should be disclosed before this Hon’ble Court.

8.2 That the quash Annexure A/6 dt. 6.9.2016 and he directed to the respondents for replace the name of the applicant and he treat nomination as it is such as it was mentioned before strikeout.

8.3 That may kindly be give direction to the respondents for provide family pension in favour of applicant along with arising and higher penalty also.

8.4 That any other relief and cost it this Hon’ble Court deems fit and proper may kindly be awarded in favour of applicant.”

3. Precisely, the case of the applicant, as stated by her, is that her husband late Shri Neelkanth Rao Kapure was working as Civilian Motor Driver Grade – I with the respondent department. He died on 21.02.2012 (Annexure A-1), leaving behind applicant along with four daughters and one son. After the death of deceased, the applicant approached the respondent No.1 for providing settlement dues and pension in her favour vide application dated 27.12.2014 (Annexure A-2). The respondent department, vide letter dated 12.05.2015 (Annexure A-3) has informed the applicant that during the lifetime of late Shri Neelkanth Rao Kapure, neither Smt. Nanda Kapure nor the applicant or any other has claimed for the family pension,

therefore, no action can be taken on your application dated 27.12.2014.

4. The applicant submits that Smt. Nanda Kapure has moved an Original Application No.1040/2014 before this Tribunal for grant of family pension to her, which was disposed of vide order dated 04.12.2015 (Annexure A-4) with a direction to the respondents to get the matter examined on the basis of various declarations/papers submitted by the deceased employee during his service period with the respondents as well as verification with his colleagues and on the basis of this evidence decide the matter in regard to real claimant of family pension. After determining regarding who was the legally wedded wife of the deceased employee at the time of his death, the respondents should expeditiously issue PPO for grant of family pension in her favour.

5. The applicant submits that despite the specific order of this Tribunal, the respondent department vide order dated 06.09.2016 (Annexure A-6) replied that there is no document to show that applicant is a legally wedded wife of deceased Shri Neelkanth Rao Kapure and after production of order by the competent court of

law regarding legal wedded wife of the deceased, then only action can be taken in the matter. However, it has been submitted that the respondents have ignored the fact, as has been indicated in Annexure A-3 dated 12.05.2015, that the name of the applicant has been replaced by another name, namely; Baby Nanda Kapure, without permission of the competent authority.

6. The grievance of the applicant is that on finding such error, the name of the applicant should have been restored as the name of Baby Nanda has been entered illegally. The applicant has also relied upon the Annexure A-7 and A-8, which are the Adhar Card of the applicant and her son and Annexure A-10, the family particulars of deceased Shri Neelkanth Rao Kapure dated 11.06.1990, whereby the name of Baby Nanda has been inserted to show the name of other family members of the applicant.

7. The respondents have filed their reply. It has been submitted that late Shri Neelkanth Rao Kapure was working as Civilian Motor Direver Gr-I with the respondent department and he superannuated on 31.12.2008. It has been further submitted that as per declaration of family pension dated 09.08.2008 (Annexure R-

1) submitted by the deceased for the purposes of family pension and Death Cum Retirement Gratuity (DCRG), the name of Smt. Nanda Kapure has been mentioned as wife of the deceased and Shri Akash Rao Kapure and Vikash Rao Kapure have been mentioned as son and Ku. Sandhya Kapure as daughter of the deceased. Therefore, on the basis of this document, the respondents have prepared the case for pension and family pension and forwarded to PCDA (P), Allahabad to sanction pension in favour of Shri Neelkant Rao Kapure and family pension in favour of Smt. Nanda Kapure.

8. It has been further submitted by the respondents that vide application dated 27.12.2014, the applicant claimed family pension being a legally married with of deceased. It has been submitted by the respondents that Service Book of the deceased Shri Neelkanth Rao Kapure was verified and it was found that the family declaration submitted by him for the purpose of LTC on 11.06.1990, has been tampered by deleting the name of Smt. Indrawati. Therefore, the matter was taken up with the PCDA (P), Allahabad to cancel the family pension in respect of Smt. Nanda

Kapure and the PPO dated 24.12.2008 has been cancelled with intimation to Smt. Nanda Kapure vide Annexure R-6 and R-7.

9. The respondents have further submitted that, in pursuance to order dated passed by this Tribunal in O.A No.200/01040/2014 in the case of Nanda Kapure, they have nominated a Group 'A' officer to investigate the case and after whole scrutiny of the case, he submitted his report (Annexure A-10), in which, it has not been established that Smt. Nanda Kapure is wife of deceased employee. Considering the inquiry report submitted by the officer, a reasoned and speaking order dated 14.03.2016 (Annexure R-11) was issued to Smt. Nanda Kapure by which her claim for family pension has been denied.

10. The applicant has also filed rejoinder to the reply filed by the respondents. It has been submitted that the name of the applicant is written as wife in the Service Record of the deceased and is deleted arbitrarily, without disclosing any reasons to the applicant. Therefore, it has been submitted that the applicant is entitled for family pension, being legally wedded wife of the deceased employee.

11. We have heard the learned counsel for both the parties and have also considered the documents annexed with the pleadings. We have also perused the original record of Service Book and Pension Papers of deceased Neelkanthrao Kapure.

12. It is undisputed that Smt. Nanda Kapure has filed the Original Application No.200/01040/2015, which was disposed of by this Tribunal on 04.12.2015. While deciding the O.A, this Tribunal has specifically made observations that a declaration was made by the deceased employee on 11.06.1990 in which name of the applicant has been replaced by the name of Babynanda. It was further observed that the respondents must be having a lot of other documents in their possession, by which it can be verified whether Smt. Nanda Kapure (Babynand) is legally wedded wife of the deceased employee or not. In para 8 of the order, it was observed as under:

“8. In these circumstances, the Original Application is disposed of with a direction to the respondents to get the matter examined on the basis of various declarations/papers submitted by the deceased employee during his service period with the respondents as well as verification with his colleagues and on the basis of this evidence decide the matter in regard to real claimant of family pension. After determining regarding who was the legally wedded wife of the deceased employee at the time of his death, the respondents should expeditiously issue PPO for grant

of family pension in her favour. This exercise should be completed within a period of four months from the date of communication of this order.”

13. After receiving the order of this Tribunal in OA No.200/01040/2015, a Group ‘A’ officer was nominated by the respondents to investigate the case and after whole scrutiny of the case, the concerned officer has submitted his report (Annexure R-10), in which, it is not established that Smt. Nanda Kapure is legally wedded wife of the deceased employee on the basis of the documents and after verification with the colleagues of deceased employee. Thereafter, the respondent department, on the basis of enquiry report submitted by Group ‘A’ officer, has passed a reasoned and speaking order dated 14.03.2016 (Annexure R-11), by which family pension to Smt. Nanda Kapure has been denied.

14. In Annexure R-11, the respondents have accepted the report of Group ‘A’ officer, who has held that Smt. Nanda Kapure has failed to prove to be legally wedded wife of the late Shri Neelkanth Rao Kapure. In the order, it has been mentioned that after perusal of Service Book of Shri Neelkanth Rao Kapure, without any proper order from the competent authority, on 11.06.1990, the name of applicant has been struck down by adding

the name of Smt. Babynanda. This fact has also been proved as per document at Annexure R-5, filed by the respondents. A bare reading of the same makes it itself clear that name of the applicant has been struck down and name of Smt. Babynanda has been written. This document itself is an important document. The respondent department, in their reply, have admitted that the family declaration submitted by the deceased employee for the purpose of LTC on 11.06.1990, has been tampered and the name of the applicant is deleted by endorsing the name of Smt. Babynanda. So, it is clear that vide Annexure R-10 and R-11, the respondents have come to the conclusion that the name of the applicant was entered as wife initially as per Annexure R-5, while claiming the LTC bill and this fact can also be clarified from the Service Book of deceased employee in which the LTC was sanctioned in favour of his dependent mother, wife and the children.

15. The reasons given by the respondents in the instant case vide Annexure A-6 dated 06.09.2016 that no documents, in favour of the applicant, is in the Service Book, which shows that the applicant is legally wedded wife of the deceased employee. However, this stand of the respondents is itself contrary to the

record itself. Specifically, when the respondents, on the basis of report submitted by Group 'A' officer, have come to the conclusion that Annexure R-5 is a tampered document and name of the applicant has been struck down by endorsing the name of Smt. Babynanda, without there being any order from the competent authority. Thus, there is no doubt that the name of the applicant was in the Service Book of deceased employee earlier, and therefore, the reason given by the respondents in not releasing pension to the applicant, is illegal and unjust.

16. Moreover, as per Annexure A-4, this Tribunal in OA No.200/01040/2015, has specifically directed the respondents to get the matter examined on the basis of various declarations/papers submitted by the deceased employee during his service period with the respondents as well as verification with his colleagues and on the basis of this evidence, decide the matter in regard to real claimant of family pension. In pursuance therefore, the respondent department has done the enquiry by appointing a Group 'A' officer and the finding of the enquiry officer has been accepted by the respondents. But, the respondents have misconstrued the finding of the enquiry officer and have come to the wrong conclusion that

there is no documents/evidence in the Service Book, which proves the fact regarding that applicant is legally wedded wife of the deceased employee. On the contrary, as per Annexure R-5, coupled with the entry in the Service Book regarding the claim of LTC, it is clear that the applicant is the legally wedded wife of the deceased employee.

17. Resultantly, this Original Application is allowed and Annexure A-6 is quashed and set aside. The respondents are directed to provide family pension in favour of the applicant from due date, within a period of 60 days from the date of receipt of a certified copy of this order. No order as to costs.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member