

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/02018/2015

Date of order : 9.5.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

GOUTAM DHOCK & ANR.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.T.K.Biswas, counsel

For the respondents : Ms. C.Mukherjee, counsel

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. In this OA the applicant has claimed the following reliefs :

- a) An order directing the respondents to release the pension and death benefits share of the applicants, which was not paid till today and the applicants are entitled to pension upto the age of 25 years (i.e. 1994 to attaining the age of 25 years) and further directing the respondents to pay the interest 20% per year for such delayed payment;
- b) An order directing the respondents to consider the representation dated 1.10.15 and to dispose of the same (Annexure A/6) within specific period;
- c) An order directing the respondents to produce all the relevant records of the case before this Hon'ble Tribunal at the time of hearing.
- d) Leave may be granted to move this application jointly under Section 4(5)(a) of the CAT (Procedure) Rules, 1987.

3. The admitted facts that could be deciphered from the pleadings and the written instructions submitted by the Id. Counsel for the respondents would be as under:

The employee i.e. father of the applicant Tarapada Dhock had two wives. He died on 18.4.94 leaving behind his second wife Sipra Dhock and a son out of her namely Prasanta Dhock along with three sons, namely Rabindranath Dhock, Gautam Dhock and Uttam Dhock and one daughter Ashima Dhock from his first wife, Puspa Rani Dhock, who died on 3.8.98. It is not in dispute that the applicant married for a second time after the death of his first wife.

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the settlement dues have been arranged as per Rules in favour of second wife and all the children of the deceased employee as under :

"Sub : OA No. 2018 of 2015 before the Hon'ble CAT/Cal, Gautam Dhok & Anr. -vs- UOI & Ors.

The aforesaid matter has been filed by the said applicants before the Hon'ble CAT/Calcutta for payment of the share of pension and death benefits of Lt. Tarapada Dhok (the ex employee) to the applicants.

This is a two wives case and the ex employee, died on 18.4.1994, left behind the following members -

- 1) One Smt. Sipra Dhock (2nd wife) and her son Sri Prosanta Dhock
- 2) Sri Rabindra Nath Dhock, Sri Gautam Dhock, Sri Uttam Dhock (sons) and Smt. Asima Dhock (daughter) are all issues of 1st wife, Lt. Pusparani Dhock who died on 3.8.1998

All settlement dues have already been arranged as per Rules in favour of 2nd wife and all wards of Lt. Tarapada Dhock, vide CO7 No. 090023 dated December, 1996. 50% family pension has been sanctioned in favour of Smt. Sipra Dhock (2nd wife). At that material time the applicants did not submit the required documents such as Form No. 19, 8, Photo, Banks A/C, Certificate from the Civil Authority regarding marriage and employment, birth certificate, etc. as a result, the Railway Authority was not able to process the remaining 50% family pension in favour of the applicants.

After receipt of the petition, one Staff & Welfare Inspector has been engaged to enquiry the matter and to help the applicant to execute all settlement forms to process the settlement dues. In this regard, the Staff & Welfare Inspect informed the applicants vide his letter dt. 18.3.2016 (copy enclosed) to submit the required documents urgently but till the date, the applicants do not submit the required documents.

In view of above, you are requested to apprise the Court accordingly on the next date of hearing to avoid further legal complications and any adverse order."

4. The first applicant would seem aggrieved as his share of family pension remained unpaid from 1994 to 1999 and the second applicant would be aggrieved as he was not paid the family pension from 2001 i.e. till he attained 25 years of age. It was further submitted by the ld counsel for the applicant that the applicant No.1 is the guardian of applicant No.2 since is mentally unsound. It is also an admitted fact that the second wife, after the sons of the first wife became ineligible upon attaining 25 years of age, has been bestowed with 100% of the share of the family pension. However, if one of the sons of first wife is mentally challenged he would be entitled to family pension for life in terms of Pension Rules as under :

75(6) The period for which family pension is payable shall be as follows:--

(a) if such son or daughter is one among two or more children of the railway servant, the family pension shall be initially payable to the minor children (mentioned in clause (ii) or clause (iii) of this sub-rule) in the order set out in clause (iii) of sub-rule (8) of this rule until the last child attains the age of twenty-five years and thereafter the family pension shall be resumed in favour of the son or daughter suffering from disorder or disability of mind, including the mentally retarded, or who is physically crippled or disabled and shall be payable to him or her, for life;"

5. Therefore, the OA is disposed of with the consent of the parties with the following order :

The applicant No.1 shall present himself before the respondent No.3 for receiving the payments on his behalf as well as on behalf of the second applicant within four weeks from the date of receipt of the copy of this order. Since there is no dispute about the status of the applicants as sons of the deceased employee out of the first wife, the respondent No.3 shall make an honest endeavour either himself or through his representative to make them fill up of the forms as are required to be filled up for release of the payments, within two months from the date of the forms are filled up by the applicants.

6. As it seems that the following documents would be necessary the applicant shall submit the following documents for processing their case :

- i) Death certificate of the employee and his first wife
- ii) Bank Account particulars
- iii) Voter Identity (Voter I Card, Adhar Card, Ration Card, etc.)
- iv) and any other documents that are required to in accordance with Pension Rules.

7. Upon receipt of the documents the respondents shall see whether the second applicant would be entitled to family pension for life, and accordingly pass orders, so that the applicants are not compelled to approach this forum again and again in order to seek justice.

8. In case the applicants are still aggrieved in regard to any of the death benefits other than arrears of family pension, as the death benefits have also been prayed for, they shall make a specific prayer to that effect to the respondent No.3 who shall look into the prayer and deal with the same in

accordance with law and dispose it of with a reasoned and speaking order within two months from the date of receipt of such representation.

9. The present OA accordingly would stand disposed of.

10. No order as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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