

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No. 350/00179/2016

Date of Order: 27.06.2018

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

Rajen Dutta, son of Late Kamala Kanta Dutta
(Ex-Postal Employee) in the Office of Calcutta G.P.O.
Kolkata – 700001, aged about 51 years
Unemployed (Disabled), Residing at 3A
Kartick Bose Lane, P.O.– Beadon Street
P.S.– Burtalla, Kolkata – 700006.

.....Applicant.

-vs-



1. Union of India, service through the Secretary
Department of Post, Ministry of Communication
Dak Bhavan, New Delhi – 110001
2. The Chief Post Master General
12, C.R. Avenue, Yogayog Bhavan
Kolkata – 700012.
3. The Director of Postal Services, Calcutta
G.P.O., Kolkata – 700001.
4. Deputy Director (Admn), Kolkata G.P.O.
Kolkata – 700001.

.....Respondents.

For the Applicant : Mr. T.K. Biswas

For the Respondents : Mr. A. Mondal

ORDER (ORAL)

Per Ms. Bidisha Banerjee, Judicial Member:

Heard learned counsel for both the parties.

2. The applicant in this O.A. has claimed family pension for being physically disabled child of Late Kamalakanta Dutta, Ex. Postal employee for livelihood. He has submitted disabled certificate certifying his disability as greater than 65% hearing impaired. The certificate was issued by a board wherein an E.N.T. was a Member.

3. The respondents in the reply indicated that such case can be considered under Rule 54(6) of CCS (Pension) Rules, 1972 only if it is fulfills the following conditions:

The logo of the Central Administrative Tribunal (CAT) is a circular emblem. It features a blue Ashoka Chakra in the center, surrounded by a ring of 24 semi-circular segments. The words "Central Administrative Tribunal" are written in a blue, sans-serif font along the top inner edge of the circle. Below the Ashoka Chakra, there is a stylized representation of a building or scales, and the text "विधि वाला न्याय" (Vidhi Vala Nyaya) in Devanagari script.

(iv) before allowing the family pension for life to any such son or daughter, the appointing authority shall satisfy that the handicap is of such nature so as to prevent him or her from earning his or her livelihood and the same shall be evidenced by a certificate obtained from a Medical Board comprising of a Medical Superintendent or a Principal or a Director or Head of the Institution or his nominee as Chairman and two other members, out of which at least one shall be a Specialist in the particular area of mental or physical disability including mental retardation setting out, as far as possible, the exact mental or physical condition of the child.

4. The respondents have further averred that the disability certificate so produced by the applicant did not contain any certification of the medical board that the applicant was unable to earn his living because of his disability, as required under proviso (iv) to Rule 54(6) of the C.C.S (Pension) Rules, 1972 which

lead to the natural presumption that the applicant, notwithstanding his disability, is able to earn his livelihood.

5. The respondents further averred that certificate was returned back to the applicant since it was not in conformity with the aforesaid rules. However, the claim/case of the applicant was not closed as vide letter dated 23.04.2015, the respondents asked for documents to be re-submitted after being duly corrected by the competent authorities for settlement of case. Instead of complying with the same, the applicant rushed to this Tribunal.

6. Learned counsels were heard.

7. In view of the fact that the disability certificate, produced from the competent authority may not be in conformity with the proviso (iv) to Rule 54(6) of the C.C.S (Pension) Rules, 1972 and in view of the fact that the case of the applicant has not been closed, the applicant is given liberty to obtain a disability certificate from competent authority in terms of proviso (iv) to Rule 54(6) of the C.C.S (Pension) Rules, 1972 not only certifying the percentage of the disabled which has already been certified as greater than 65%, but also indicating that such disability would prevent him from earning his livelihood.

8. The applicant shall obtain such certificate from the competent authority within three months from the date of receipt copy of this order.

9. In the event, such certificate is produced before the competent

authority, the authority shall reconsider the matter as assured vide letter dated 23.04.2015 and pass appropriate reasoned orders within two months from the date such certificate is presented by the applicant.

10. O.A. accordingly stands disposed of. No order as to costs.

(Bidisha Banerjee)
Member (J)

PB

