

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD
CIRCUIT SITTING AT NAINITAL**

Dated: This the 28th day of **November** 2018.

PRESENT:

HON'BLE MR.RAKESH SAGAR JAIN, MEMBER –J

HON'BLE MR. MOHD. JAMSHED, MEMBER-A

Original Application No. 331/01248 of 2018

Smt. Chameli Devi W/o Late Ram Swaroop Teshwar, aged about 65 years, R/o House No. T III, 51, Hathibarkala Survey Estate, Dehra Dun, Uttarakhand.

... . Applicant

By Adv: Shri Ram Prasad

V E R S U S

1. Union of India, through Secretary, Ministry of Science and Technology, New Mehrauli Road, New Delhi.
2. The Surveyor General of India, Survey of India, Dehra Dun.
3. The Director Northern Printing Group (NPG), Survey of India, Hathbarkala Survey Estate, Dehra Dun.

... Respondents

By Adv: Shri T. C. Agrawal

ORDER

BY HON'BLE MR.RAKESH SAGAR JAIN, MEMBER – J

Shri Ram Prasad, learned counsel for the applicant and Shri T. C. Agrawal, learned counsel for the respondents are present.

2. The present O.A. has been filed by Smt. Chameli Devi W/o deceased Ram Swaroop Teshwar seeking the aforesaid relief(s):

(a) Issue the directions commanding the respondents to extend all the benefits of the order dated 06.07.2015 passed by this Hon'ble Tribunal and consequential order

dated 10.03.2017 passed by the Respondent No. 2 is extended to the applicant being legal heirs of similarly situated employee i.e. applicant No. 9 in O.A. 410 of 2011, who unfortunately expired during the pendency of proceedings of aforesaid O.A.

(b) Issue the directions commanding the respondents to pay arrears of pay and other consequential benefits accrued due to benefits as sought in Para (a) above.

(c) Issue the directions commanding the respondents to revise the pension/family pension of the applicant based on revision of pay due to above benefits of enhance pay scale.

(d) Issue the directions commanding the respondents to pay arrears of pension/family pension and other consequential benefits i.e. gratuity, leave encashment etc. Based on the above revision of pension.

4. The brief facts of the case are that husband of applicant along with other persons had filed O.A. No. 410 of 2011 titled T. Pandey and others Vs. Union of India which was disposed by vide order dated 06.07.2015 by directing the respondents to extend the benefit of the Pay scale of Rs. 5000-8000/- to Record Keeper Division-I. However, unfortunately husband of applicant died during the pendency of the O.A. and his L.R.s were not brought on record. In these circumstances the Learned Tribunal in the aforementioned order observed that this order shall not be applicable to the four applicants, which included the husband of applicant since they had expired.

5. Through the medium of this O.A. the applicant who is the L.R. of deceased Ram Swaroop Teshwar seeks the extension of the benefit of the order in aforementioned O.A. No. 410 of 2011 as given to other applicants therein and which benefit of the order of the Tribunal has been given to the original applicant by respondents vide letter dated 10.03.2017 (Annexure A-I).

6. We have heard and considered the arguments of Shri Ram Prasad, Advocate for applicant and Shri T. C. Agrawal, Advocate for the respondents.

7. Learned counsel for the applicant submitted that looking to the clear and undisputed facts of the case, there is no legal impediment in allowing the O.A. at the admission stage. On the other hand learned counsel for respondents submitted that there are disputed questions of facts which are required to be adjudicated by the Tribunal, therefore, it would be necessary for a just disposal of the case that the respondents be permitted to file the counter affidavit.

8. Looking to the facts of the case which are discernable from the material on record and regarding which facts there can be no dispute, therefore, we are of the view that the case can be disposed of at the admission stage.

9. Learned counsel for the applicant while reiterating the pleas raised in his O.A. has submitted that vide order No. E.2-2032/1196-B (T.Pandey) dated 25.05.2018 issued by Deputy Surveyor General for Surveyor General of India, the pay scale of Rs. 5000-8000/- will be implemented for all Record Keepers Division-I w.e.f. 01.01.1996 in compliance to order dated 06.07.2015 of CAT, Allahabad, Circuit Bench Nainital and submitted that as per this letter the benefit of the pay scale has been extended to all Record Keepers Division-I, which would include the deceased husband of the applicant and therefore, there can be no legal impediment in granting the relief to the applicant. Learned counsel further argued that it is a settled law that the benefits given to a class of persons can be availed of even by those officials who have not approached the Court.

10. On the other hand learned counsel for the respondents submitted that since the relief was not granted to the deceased husband of the applicant, as such, the relief cannot be granted to the applicant.

11. Learned counsel for applicants further submitted that when a particular set of employees are given relief by Court, all other identically situated persons should be treated alike by extending same benefit and not doing so would amount to discrimination and be violative of Article 14 of the Constitution of India and therefore, in the present case, the applicants are entitled to equal treatment as given to other tailors in the aforementioned judgments.

12. The settled principle of law in aforementioned case is that identically placed persons, including the applicant, can be given the same benefits, which would avoid not only unnecessary litigation, cost and heart burning. This principle has in fact been applied by the respondents which is evident from letter dated 25.05.2018 wherein it has been mentioned that the relevant pay scale of Rs. 5000-8000/- would apply to **ALL** Record Keeper Division-I. The word '**ALL**' has been emphasized in the letter. (Read with advantage K.I.Shephard v/s UOI, 1987 SCC (L&S) 438)

13. The applicant in the instant case is legally entitled to the similar treatment and parity in pay scale, granted to similarly situated persons, in the similar circumstances should be applicable to her deceased husband, as envisaged under Articles 14 and 16 of the Constitution of India, in view of the ratio of law laid down by Hon'ble Apex Court in case of Rajendra Yadav Vs. State of M.P. and Others 2013 (2) AISLJ, 120 wherein, it was ruled that the concept of equality as enshrined in Article 14 of the Constitution of India embraces the entire realm of State action. It would extend to an individual as well not only when he is discriminated against in the matter of exercise of right, but also in the matter of imposing liability upon him. Equal is to be treated equally even in the matter of executive or administrative action. As a matter of fact, the Doctrine of equality is now turned as a synonym of fairness in

the concept of justice and stands as the most accepted methodology of a governmental action. It was also held that the administrative action should be just on the test of 'fair play' and reasonableness.

14. However, looking to the letter dated 25.05.2018 whereby the pay scale of Rs. 5000-8000/- has been granted to **All** Record Keepers Division-I w.e.f. 01.01.1996, which would include the deceased husband of the applicant and also on the principle of including the persons to be entitled to the relief who have not approached the Court, the applicant is entitled to the relief prayed for by her in the present O.A. and therefore, applicant is entitled, as per, order No. E.2-2032/1196-B (T.Pandey) dated 25.05.2018 issued by Deputy Surveyor General for Surveyor General of India to the benefits given to the Record Keepers which at relevant time included her husband.

15. Accordingly the O.A. is allowed. No order as to costs.

(MOHD. JAMSHED)
Member (A)
 /Shashi/

(RAKESH SAGAR JAIN)
MEMBER – J