

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Original Application No. 330/0570/2016

Dated: This the 12th day of April 2019.

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)

Syed Aftab Ali Rizvi S/o Late Muzaffar Ali, R/o House No. 102, Rasoolpur, Syed Wara, Near Meerapur Police Chowki, District Allahabad.

. . . Applicant

By Adv: Shri Rakesh Verma

V E R S U S

1. Union of India through its Secretary, Ministry of Communication (Department of Posts), Shastri Bhawan, New Delhi.
2. Senior Superintendent of Post Offices, Kanpur Division, Kanpur.
3. Director, Postal Accounts, U.P. Region, Sector D, Aliganj, Lucknow 226024.
4. Assistant Chief Accounts Officer (Pensions), Office of the Director Postal Accounts, U.P. Region, Sector D, Aliganj, Lucknow 226 024.

. . . Respondents

By Adv: Shri Rajendra Prasad Mishra

O R D E R

1. The present O.A. has been filed by applicant Syed Aftab Ali Rizvi under Section 19 of Administrative Tribunal Act seeking the following reliefs:-

"(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated

14.08.2015, duly signed by the respondent No.4 on 24.11.2015, addressed to the Accounts Officer, office of the Chief Post Master General, U.P. Region, Lucknow, forwarding a copy of the same to the petitioner also for information, rejecting the claim of family pension to the petitioner (Annexure A-1 to compilation No.1 of this petition).

- (ii) To issue a writ, order or direction in the nature of mandamus directing the respondents to allow the benefit of family pension to the petitioner and to fix the same and calculate the arrears thereof from month to month together with D.A. thereon and further fixation pursuant to the VIth C.P.C. and onwards with effect from 18.03.2003 (father died on 17.3.2003) up to the date 04.07.2010 when the petitioner attained the age of 25 years as per the date of birth i.e. 05.07.1985 and to pay the same to the petitioner, within a period as may be fixed by this Hon'ble Tribunal.
- (iii) to issue any other suitable writ, order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.
- (iv) To award cost of the petition in favour of the petitioner".

2. Case of applicant is that his father late Muzaffar Ali while working in the respondent-department retired on 01.01.1988. Both father and mother of applicant have expired and his sister Tanveer Fatma got married in 2006. At the time of death of his father on 17.03.2003, applicant was 18 years old. The applicant on getting knowledge that son of government servant can get family pension up to the age of 25 years old, if before attaining the age of 25 years, the father getting the government pension expires. Applicant therefore, sent a representation dated

15.05.2015 to Respondent No. 2 for his entitlement to the family pension which was rejected by the impugned order dated 14.08.2015 (Annexure A1). It is the case of applicant that the contention of the respondents that because the name of the applicant has not been mentioned in the family details in the service record by his father, the applicant cannot be deprived of the benefit of the family pension by the respondents and has relied upon Rule 54 of CCS (Pension) Rules, 1972 to backup his claim.

3. Respondents' case is that applicant is not entitled to the family pension of deceased Muzaffar Ali since the Chief Postmaster Kanpur who is a necessary party has not been made a party in the O.A and the O.A is barred by period of limitation. Applicant is also not entitled to family pension of Muzaffar Ali since his name has not been included in PPO/Pension record i.e. in Form -3 at the time of retirement or death of Muzaffar Ali. A letter was also received from office of S.M.Abbas Rizvi, advocate on behalf of the applicant as well by said Mst. Tanveer Fatima for authorisation of family pension in favour of Mst. Tanveer Fatima (alleged daughter of deceased Muzaffar Ali) but the name of said person did not exist in the service record of deceased Muzaffar Ali.
4. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record as well as the written arguments filed by respondents. Learned counsels for the parties have reiterated the pleas taken by them in their respective pleadings.
5. The question of limitation raised by respondents is to be rejected. In a similar situation, the CAT, Bombay in Jainabai v/s Union of India, 2016 (3) CAT 652 held that ". . . it is settled law that so far as claim for pension/family pension is concerned, the

cause of action accrues from month to month. Thus, it give rise to a continuous or recurring cause of action. Hence, on the ground of limitation raised by the respondents, the present OA is not liable to be dismissed."

6. Another ground raised by respondents is that Chief Postmaster Kanpur who is a necessary party has not been made a party in the O.A, as such, the OA deserves to be dismissed. But why the Chief Postmaster is a necessary particular, the reasons have not been given by the respondents. This, objection of respondents cannot be accepted in absence full particulars.
7. The payment of family pension is governed by Rule 54 of CCS (Pension) Rules, 1972 which lays down that on death of Government servant after retirement from service and on date of death was in receipt of a pension, his son would be entitled to the family pension until he attains the age of 25 years.
8. Learned counsel during arguments placed reliance upon order dated 07.03.2006 passed by CAT, Allahabad in O.A. titled Km. Sudha v/s Union of India wherein almost similar circumstances as in present O.A that the name of applicant was not mentioned in the service record of deceased, order was passed allowing the O.A. with direction to respondent to decide the entitlement of applicant to family pension.
9. In the present case, applicant has placed documents in support of his case showing him to be son of deceased Muzaffar Ali.
10. In the light of what has been discussed above, I direct the respondent-department to consider the claim of the applicant for grant of family pension with effect from the date following the date of death of his mother on the basis and verification of

service records of late Muzaffar Ali and also the verification of the documents submitted by the applicant in support of his claim and decide the entitlement or otherwise of family pension to the applicant, and to take appropriate decision by passing a reasoned and speaking order within a period of three months from today. If the applicant is entitled to, he shall be paid the family pension from the month following that upto which the mother of applicant, in case, was disbursed the family pension. It is needless to say that the decision to be so taken by the respondents shall be communicated to the applicant within the same period of three months.

11. Resultantly, the O.A. is allowed to the extent indicated above.
No costs.

(Rakesh Sagar Jain)

Member (J)

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