

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

OA No. 1089/2014

Present: Hon'ble Mr.Gokul Chandra Pati, Member (A)

Manorama Routh, aged bout 64 years, W/o Late Ramakanta Routh, permanent resident of Vill – Sanhalpara, PO – Sanjuani, Dist – Jajpur at present residing at Vill/PS – Mangalpur, Dist. – Jajpur.

.....Applicant

VERSUS

1. Union of India represented through its Secretary to Government of India, Ministry of Defence, Indian Ordnance Factories, Ayudh Bhawan Kolkata – 700002.
2. Secretary to Govt. Ministry of Personnel, PG & Pensions, Department of Pension & Pensioners' Welfare, Lok Nayak Bhawan, Khan Market, New Delhi.
3. The Principal Controller of Defence Accounts (Pensions), Draupadighat, Allahabad – 211014.
4. General Manager (Asst. Works Manager/Estt.) of Gun & Shell Factory, Cossipore, Calcutta – 2.
5. District Treasury Office, Jajpur Town, A/PO/Dist. – Jajpur.

.....Respondents.

For the applicant : Mr.S.Pattnaik, counsel

For the respondents: Mr.S.Behera, Sr. Counsel

Heard & reserved on : 25.1.2019

Order on : 8.2.2019

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The OA has been filed for the following reliefs:-

- "(a) direction be issued to respondent No. 3 & 4 who is the sanctioning and disbursing authority to issue sanction order for disbursement of family pension.
- (b) direction be issued to pay arrear dues with 18% interest calculating the same from the date of missing of her husband i.e. 18.6.2006 in view of annexure-8 till actual payment is made and for non-payment of family pension and sitting over matter for more than eight years despite of submission of all particulars/requisites/document and direction o Hon'ble Tribunal to that effect, heavy cost be imposed on respondent No.3 & 4.
- (c) any other relief(s) as the applicant is entitled to be granted as this Hon'ble Tribunal deem fit and proper for the ends of justice.

2. The husband of the applicant was retired Charge Man-I under the respondents. He was reported to be missing since 18.6.2006. On 20.7.2006,

the applicant informed the local police vide Station Dairy entry no. 345 dated 20.7.2006 and Paper publication was done and S.P. Cossipore, from where the applicant's husband was missing, was informed. Since the respondents did not consider sanction of family pension, the applicant filed the OA No. 919/2012, which was disposed of by the Tribunal with a direction to the respondents to dispose of the representation of the applicant for family pension. In compliance, the applicant was informed that she was entitled for family pension of Rs. 2869/-, but the same was not sanctioned or released to the applicant. Hence, the OA has been filed for disbursement of the family pension with interest.

3. Before filing the counter, the Tribunal vide the order dated 9.10.2015 observed as under:-

"Heard Mr.P.K.Tripathy, learned counsel for the applicant and Mr.S.Behera, learned Standing Counsel for the respondents. Prayer of the applicant in this case is for payment of family pension. Mr.Behera submitted that the payment of family pension in respect of the applicant has been sanctioned vide order dated 25.8.2015 of the Principal Controller of Defence Accounts. Therefore, the prayer of the applicant has already been met. However, learned counsel for the applicant has submitted that prayer also includes prayer for payment of interest on pension which allegedly has been delayed by eight years and therefore, pressed for issuance of notice in this case. In view of this, the OA is admitted. Issue notice to respondents returnable in four weeks. Counter shall be filed within four weeks thereafter. Rejoinder, if any, be filed within two weeks from the date of receipt of counter. List this matter for hearing after the pleadings are complete."

4. The respondent No.5 i.e. Treasury Officer filed the counter on 17.1.2017, stating as under:-

"The applicant Smt. Manorama Routh is the wife of one Ramakanta Routh, holder of PPO No. C/FYS/17233/2004, consequent upon receipt of family pension authority vide order No. AT/TRY/Jajpur/Orissa 2015 from Principal Controller of Defence Accounts (Pension) Allahabad Family Pension @ Rs.6735/- P.M. + T.I. w.e.f. 21.7.2006 to 5.5.2011, then normal family pension @ Rs.4103/- + T.I. w.e.f. 6.5.2006 to 31.8.2015 total amounting to Rs.866393/- (Rupees Eight lakh Sixty six thousand Three hundred Ninety three) only has been paid in her favour by this office on 15.9.2015. A copy of Treasury Serial (T.S.No.-10) is filed herewith and marked as Annexure R-5/1. Thereafter, on the basis of her application for transfer of pension to Public Sector Banks, all her pension documents has been transferred to SBI, Mangalpur Branch through SBI, Main Branch, Jajpur Town vide this office memo No. 38 dt. 5.1.2016,a copy of which is filed herewith and marked as Annexure R-5/2. And now she is drawing her family pension from SBI, Mangalpur Branch."

5. Other respondents have filed counter on 12.4.2017 and in para 4, it is stated regarding delay in disbursement of pension to the applicant as under:-

"The District Treasury Officer, Jajpur, Orissa has intimated vide his memo No. 829 dated 15.9.2015 that the family pension in respect of Smt. Manorama Routh (applicant) has been paid for the period from 21.7.2006 to 31.8.2015, amounting to Rs.866393/- on 15./9.2015. A copy of the District Treasury Office, Jajpur memo dated 15.9.2015 is enclosed.

From the above submitted facts it is crystal clear that the respondents have no intention for non-sanctioning of the pension of the applicant, and since her first application the concerned Deptt. Has initiated for the same. The case

has been delayed for non-submission of required documents/information etc. by the applicant only Smt. Routh has applied 1st time for sanction of family pension vide her application dated 7.10.2009 i.e. after elapse of more than three years from the date of missing of her husband Shri Ramakanta Routh. Hence, the claim of interest for non-sanctioning of family pension does not stand. After sanctioning of family pension all arrears have already been paid."

6. In the Rejoinder, the applicant stated that the family pension was disbursed to her on 15.9.2015 after a delay of 9 years 1 month from the date of filing of the FIR about her missing husband, without payment of any interest. The applicant has claimed interest @ 18% on the delayed payment from the date it accrued i.e. from 20.7.2006 till the date of disbursement i.e. 15.9.2015. It is noted that nothing specific has been stated in the Rejoinder to contradict the averment in the counter that the applicant submitted the application for family pension only on 7.10.2009.

7. Heard learned counsels for the rival parties and perused the record. The claim of the applicant is for the interest for the delay in release of family pension to the applicant. Learned counsel for the applicant argued that following the judgment of Hon'ble High Court in the case of Smt. Rajani Bahinipati vs. Chief General Manger (Funds), OPTCL (HRD), Bhubaneswar reported in 2012 (1) OLR-300, the applicant is entitled for interest @ 12% per annum.

8. The respondents have averred in the Counter that the applicant has informed about her husband missing from 18.10.2006 for the first time vide her letter dated 7.10.2009. This has not been contradicted by the applicant in the Rejoinder. The judgment in the case of Smt. Rajani Bahinipati (supra) cited by the applicant's counsel, the Orissa Civil Services (Pension) Rules, 1992 was applicable. The direction to pay interest @ 12% on delayed payment of family pension was given by Hon'ble High Court after considering the provisions in above Rules and taking into account the fact that the insistence of the authorities for succession certificate was against the rules applicable for Legal Heir certificate. No such ground has been taken by the applicant, whose grievance is for inaction of the respondents to sanction and disburse the family pension by asking for different documents, which have not been demonstrated to be contrary to the applicable rules. Hence, the facts in the present OA are different from the facts in the cited case.

9. Even assuming the averment of the respondents that the applicant informed them about missing of her husband on 7.10.2009 after about three years to be correct, there is no explanation for the delay in disbursement of the family pension to the applicant as per the rules. No step was taken to immediately forward the forms to the applicant. As stated in para 3 of the counter, the forms were forwarded to the applicant only after receiving the order dated

21.12.2012 of the Tribunal in the first OA filed by the applicant. Even then the disbursement could not be completed till 15.9.2015. Reasonably, the respondents should have taken action so as to sanction/disburse the family pension within three months from the date of receipt of the applicant's letter dated 7.10.2009. But instead, it was disbursed only on 15.10.2015, i.e. with a delay of about 5 years 8 months for which the delay has to be attributed to the respondents.

10. regarding interest on delayed payment of gratuity, the rule 68 of the CCS (Pension) Rules, 1972 states as under:-

"68. Interest on delayed payment of gratuity

1[(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time :

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.]

2(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.

2(3) The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2). 2(4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity."

The rate of interest under Rule 68 for delayed payment has been specified in Government of India's decision No. 2 quoted under the Rule 68. It specifies as under:-

"GOVERNMENT OF INDIA'S DECISIONS

(1).....

(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits. -

[G.I., Dept. of Pen. & P.W., O.M. No. F. 38/34/2001/-P. & P.W. (F), dated the 29-4-2002]"

From above, it is clear that for the delayed payment of family pension, interest at the rate of the interest applicable for the GPF deposit will be payable to the applicant.

11. From above discussions, the respondents are directed to pay the interest to the applicant for delay in payment of family pension, at the rate applicable

for the GPF deposit for the respective years from the date the family pension was due to be paid to the applicant, or 15.1.2010 (three months after receipt of the letter dated 7.10.2009), whichever is later, till the date of disbursement i.e. 15.9.2015 to the applicant within three months from the date of receipt of a copy of this order. The OA is allowed to the extent as above. No costs.

(GOKUIL CHANDRA PATI)

MEMBER (A)

I.Nath