

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00873/2018

Monday, this the 10th day of June, 2019

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER
HON'BLE MR.ASHISH KALIA, ...JUDICIAL MEMBER**

Smt.V.Sarojini Amma,
W/o late N.Srikumara Kaimal,
Venkiteswara Colony,
Ambikapuram,
Palakad – 678 011.Applicant

(By Advocate Mr.B.S.Syamanthak)

V e r s u s

1. The Union of India,
represented by the Secretary,
Department of Pension & Pensioner's Welfare,
Ministry of Personnel, Public Grievances and Pensions,
3rd Floor, Lok Nayak Bhavan,
Khan Market,
New Delhi – 110 003.

2. The Deputy Secretary (Hqrs.),
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
Room No.255, North Block,
New Delhi – 110 001.

3. The Pay and Accounts Officer,
Central Pension Accounts Office,
Ministry of Finance,
Trikoot-II Complex,
Bhikaji Cama Place,
R.K.Puram,
New Delhi – 110 066.

4. The Principal Chief Commissioner of Income Tax,
Kerala, CR Building IS Press road,
Kochi – 682 018.
5. The Principal Chief controller of Accounts,
Office of the Principal Chief Controller of Accounts,
Central Board of Direct Taxes,
6th Floor, CR building Annexure,
Queens road, Bangalore – 560 001.
6. The Commissioner of Income Tax (Appeals),
28/243, Poornima near Malayala Manorama,
Panampilly Nagar, Kochi – 682 036.
7. The Senior Accounts Officer,
Zonal Accounts Office,
Central Board of Direct Taxes,
3rd Floor, San Juan Towers,
Old Railway Station Road,
Kochi – 682 018.
8. The Accountant General,
Office of the Principal Accountant General,
A&E, Kerala, K.G.Road PB No.-5607,
Thiruvananthapuram – 695 001.
9. The Central Bank of India,
Represented by its Branch Manager,
M.A.Complex,
D.No.11/41-17, T.B Road,
Palakad – 678 001.
10. Central Bank of India,
Represented by its Manager,
Centralised Pension Processing Centre,
Narayan Centre, M.G.Road,
North End, Ernakulam Pin – 682 035.Respondents

**(By Advocate Mr. N.Anil Kumar, SCGSC for Respondents-1to8 and
Ms.Uma Rani M.N. For Respondents-9&10)**

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This application having been heard on 6th June, 2019, the Tribunal on 10th June, 2019 delivered the following :

ORDER

HON'BLE Mr.E.K.BHARAT BHUSHAN, ...ADMINISTRATIVE MEMBER

OA No.873/2018 is filed by Smt.V.Sarojini Amma, wife of late Shri N.Srikumara Kaimal, Amibikapuram, Palakkad, against the failure on the part of the respondents to consider the request of the applicant to revise the family pension received by her on the plea that the related records are not available. The prayer contained in the OA are as follows:

- a. Declare that the applicant is entitled and eligible for the refixation and revision of family pension in accordance with Rule 54 of Central Civil (Pension) rules, relevant extant guidelines, circulars and office memorandum relevant extant rules, guidelines, pension revision orders, office memorandums applicable in her case with effect from 1986.
- b. Direct the 7th respondent to refix/revise the family pension of the applicant in accordance with Rule 54 of Central Civil (Pension) Rules, relevant extant guidelines, circulars and office memorandum applicable in her case.
- c. To direct the respondents 1 to 7 to pay arrears of pension in accordance of the revision along with interest @ 18% per annum with all other consequential benefits from 1986 till the date of payment;
- d. To set aside Annexure A6 to the extent it says that the request of the applicant to revise the pension cannot be processed due to non availability of records.
- e. Direct the respondents to produce all the records of the case along with their reply for perusal by this Hon'ble Tribunal;

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- f. Allow the cost of this application to the applicant.
- g. Pass such other orders or reliefs as deemed fit and proper in the facts and circumstances of the case in the favour of the applicant and against the respondent.

2. The applicant is a senior citizen aged 98 years. Her husband had retired from service on 31.10.1967 while working in the Income Tax Department as Appellate Assistant Commissioner of Income Tax. The pension sanctioning authority had authorised pension of Rs.411/- per month as per Pension Payment Order No.K02629. Shri Srikumara Kaimal, the husband of the applicant, passed away on 14.09.1986. The 8th respondent issued an authorisation to the Central Bank of India to pay Rs.144/- as family pension as per Annexure A2. Thereafter, on each revision available to Central Government employees as per Vth to VIIth Pay Commissions, the applicant continued to receive only minimum family pension which was Rs.144/- with effect from 14.09.1986, Rs.3500/- with effect from 01.01.2006 and Rs.9000/- with effect from 01.01.2006.

3. Lately, she has come to realise that the respondents have failed to fix the family pension on the basis of the basic pay drawn at the time of retirement of her husband attached to the post corresponding to the post which he had retired from, duly taking into account the subsequent pay revisions. Thus according to the applicant, fixing her family pension at the minimum of the scales was erroneous. She filed a representation dated

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13.10.2017 (Annexure A3) which was replied to by the 8th Respondent dated 07.12.2017 stating that they were no longer responsible for attending to pension matters from 01.01.1990 (Annexure A4). The applicant thereupon put up her grievance before Pension Adalath of the Income Tax Department (Annexure A5). She pointed out in the representation that the deceased husband of the applicant had retired as Appellate Assistant Commissioner of Income Tax, the post which was abolished and the department had redesignated as Additional Commissioner of Income Tax. Hence the family pension is to be fixed on the basis of the last pay drawn attached to the corresponding post and at any rate not less than the minimum of existing scale, corresponding to the post from which the deceased husband of the applicant had retired.

4. Annexure A6 is a copy of the letter issued on 18.06.2018 from the office of the Principal Chief Commissioner, Income Tax wherein it is stated that *"since no details in respect of the officer as regards old pay scale is available as the officer has retired long way back on 31.10.1967, this office is not in a position to calculate the accurate eligibility of the officers, Family pension as on 01.01.1996, 01.01.2006 and 01.01.2016 is proposed to be fixed at the minimum of Rs.1275/-, Rs.3500/- and Rs.9000/- respectively, which has already been done or the same may be fixed based on the assumption that the officer being a Appellate Assistant Commissioner of Income Tax (Senior Class 1 post) at the time of retirement which is at present the post of*

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Additional CIT at Rs.36930/- w.e.f. 1.1.2016 which is the minimum of revised Family pension w.e.f. 1.1.2016 as per table No.43 in the scale of pay level 13."

5. However, no action took place pursuant to this communication. The applicant finds fault with the tendency of the respondents to ignore her request for correct fixation of pension. In this regard she calls to her assistance the orders of the apex Court in **D.S.Nakara v. Union of India – 1983 (1) SCC 305.** The applicant points out that the respondents are duty bound to fix the family pension in accordance with the relevant extant guidelines, pension revision orders, office memoranda applicable in each case, even without any request from the pensioner. They cannot take up the plea of absence of relevant documents to cover up their own inaction.

6. Shri B.S.Shyamanthak appeared for the applicant and Shri N.Anil Kumar, learned SCGSC for Respondents-1to8 and Smt.M.N.Umarani for Respondents-9&10. The case was initially posted to 25.10.2019, wherein four weeks time was granted to the respondents for filing reply statement. The OA was admitted and sent to the Registrar Court for completion of pleadings. As no reply was forthcoming, the Registrar Court placed the matter before the Bench on 18.03.2019 with the endorsement 'reply not filed'. The learned Counsel for the applicant on 18.03.2019 drew our attention to the fact that the applicant is a senior citizen aged 98 years and

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further delay in considering her case is inexcusable. Despite strict directions during the subsequent sittings also, no reply has been filed by the respondents till date. On 06.06.2019 when the case was put up for final hearing the situation remained unchanged. The learned Counsel for the respondents submitted that no instructions have been forthcoming and the reply is still under preparation. We are not inclined to allow any further time to the respondents.

7. This is a case involving the claims due to an individual who is a widow, who is extremely old. If the endorsement at Annexure A6 is to be taken into account the department itself has supported her case, yet there has been no positive move on the part of the official respondents to bring quietus to the subject. To her persistent inquiries, all that she has received so far, has been a reply that the details relating to her husband's service cannot be located. This is clearly not the way an aged pensioner and her family are to be treated. We entirely agree with the sentiments expressed by the Hon'ble Supreme Court in the judgment referred to which deprecated the tendency of authorities to view the notion of pension as a bounty granted as gratuitous payment. In a case of this nature, the respondents ought to have acted with great alacrity and taken action to revise the pension with arrears based on the facts before them, which are not under dispute.

8. In view of the facts above, we direct the respondents-2, 3, 7 and 8 to

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urgently take action to calculate the family pension due to the applicant in accordance with Rule 54 of Central Civil (Pension) Rules and other relevant guidelines and circulars applicable. This shall be done within two months from the date of receipt of a copy of this order. OA succeeds and all reliefs are granted except for the interest portion. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/00873/2018

- 1. Annexure A1:** True copy of the pension payment order of late Sri Srikumara Kaimal
- 2. Annexure A2:** True copy of the order dated 27.10.1986.
- 3. Annexure A3:** True copy of the representation dated 13.10.2017.
- 4. Annexure A4:** True copy of the letter dated 07.12.2017 issued by the respondent No.8.
- 5. Annexure A5** True copy of the application preferred by the applicant before the pension Adalath-2017.
- 6. Annexure A6 :** True copy of the letter dated 18.06.2018 issued from the office of Principal Chief Commissioner of Income Tax bearing No.F.No.Pr.CC-CHN/pension-Adalath.
- 7. Annexure A7:** True copy of the communication bearing No.F.No.CIT(A).T-1/2017-18 dated 05.02.2018 of the 6th respondent.
- 8. Annexure A8:** True copy of the Office Memorandum No.F.No.38/37/08-P&PW(A) dated 01.09.2008.
