

**SIN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 20/207/2017

Date of Order: 07.03.2019

Between:

Pratibandla Krupavaram, W/o. late Deva Sahayam,
Aged about 43 years, Occ: House wife, R/o. 4th Lane,
Cloughpeta, Ongole, Prakasam District.

... Applicant

And

1. Union of India, Rep. Director General of Posts,
Dak Bhavan, Parliament Street, New Delhi.
2. The Chief Post Master General,
A.P. Circle, Hyderabad.
3. The Superintendent of Post Offices,
Nandyal Division, Nandyal, Kurnool District.

... Respondents

Counsel for the Applicant	...	Mr. T. Gopinath
Counsel for the Respondents	...	Mrs. Vijaya Lakshmi, Advocate for Mr. T. Hanumantha Reddy, Sr. PC for CG

CORAM:

Hon'ble Mr. B.V. Sudhakar ... ***Member (Admn.)***

ORAL ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. Applicant has filed the OA challenging the non grant of family pension and for not releasing terminal benefits.

3. Applicant is the wife of late Sri Deva Sahayam who passed away while working for the respondents Organisation on 9.9.2015 due to ill health. On the death of her husband, applicant represented on 12.9.2016 for release of family pension and other terminal benefits but there has been no response. When respondents were approached under RTI to know the reasons for inaction it was revealed that the late husband of the applicant raised some debts and that there

are orders from different Courts to recover certain amounts. Applicant claims that she is not aware of the debts. Aggrieved for not granting family pension and other terminal benefits the present OA has been filed.

4. The contentions of the applicant are that she has not been made a party to the civil suit filed in the various courts to recover the debts. Family pension and terminal benefits are not being released since the last 2 years making it difficult for her to meet both ends. More or less, she has been driven to starvation in the absence of family pension which, in fact, is to be legally granted to her. Not granting family pension and withholding terminal benefits is illegal.

5. Respondents inform that while processing family pension of the applicant, Court orders were received to withhold leave salary, gratuity and other death benefits payable to the applicant until further orders. Accordingly Court orders were complied with. Applicant was made a party as she is the legal heir of the deceased employee. The amount to be attached as per court orders is Rs.4,98,459/-. Besides, Tenali Postal Employees Coop. Society has also informed that Rs.3,81,133/- has to be recovered from the terminal benefits of the deceased employee. Family pension of the applicant was not granted as recovery of TA advance of Rs.11,730 and an undertaking from the applicant are pending. The amount due to be paid to the applicant is Rs.4,75,554 towards arrears of salary, leave salary and death gratuity. Courts were informed vide lrs. Dt 31.3.2016/ 27.1.2017 about the availability of the above amount due to the applicant and also mentioned that under section 60 of CPC, Gratuity cannot be attached. Orders of the court are awaited.

6. Heard both the learned counsel. Perused the documents and material papers submitted.

7. As is seen from records there are some Court orders and hence the respondents state that they have not released terminal benefits and family pension. The amount to be attached as per court orders is Rs.4,98,459 and towards Tenali Coop. Society dues another sum of Rs.3,81,133/- is to be recovered. The details of the court orders are as under:

S. No	Amount to be recovered	Name of the court / order no	Head from which recovery to be made
1	1,04,160-00	Hon'ble Principal Junior Civil Judge, Markapur in IA 1171/2015 in OS No.288/2015	Arrears of Salary/ death benefits
2	2,80,000-00	Hon'ble Principal Junior Civil Judge, Nandyal in IA 1139/2015 in OS 466/2015	-
3	44,987-00	Hon'ble Principal Junior Civil Judge, Markapur in IA 1265/2015 in OS No.307/2015	Arrears/ leave salary
4	69,312-00	Hon'ble Principal Junior Civil Judge, Markapur in IA 1082/2015 in OS No.259/2015	Earned leave salary as per Section 60 CPC
5	Total: 4,98,459-00		

Against these recoveries, the amount due to be released to the applicant toward terminal dues is Rs.4,75,554/- which includes gratuity. As was rightly pointed out by the respondents Gratuity cannot be attached under Section 60 of CPC. As the respondents have already addressed a communication to the respective courts on 08.05.2017 stating that Gratuity could not be withheld in view of Section 60 of CPC, it was incumbent on their part to release Gratuity amount withheld by them after getting appropriate clarification from the respective courts, if they so desire. Further, since there is no order from the courts not to release family pension, respondents' action in not releasing family pension is incorrect. Pension including family pension being akin to property which comes under the ambit of Article 300-A of the Constitution. Due process

of law has to be followed if it has to be attached or to impose cuts on the same. In the absence of any such measures respondents have no right to withhold family pension. Besides, Coop. Society dues are not Govt. dues and therefore, cannot be recovered by the respondents as per G.O.I decision (1) under Rule 73 of CCS (Pension) Rules. Thus, there can be no recovery from Gratuity towards Coop. Society dues by treating them as Govt. dues. In view of the aforesaid, the respondents are directed as under:

- i) To release eligible family pension to the applicant as per extant rules.
- ii) Respondents to move the respective courts as per law for seeking permission to release Gratuity citing Section 60 of CPC. On receipt of favourable orders of the concerned Courts, Gratuity be released. TA advance due can be recovered from Gratuity at the time of release of Gratuity by duly informing the applicant and after following relevant rules on the subject.
- iii) Time permitted to implement the order is 3 months from the date of receipt of this order.
- iv) With the above directions the OA is allowed.
- v) No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 7th day of March, 2019

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