

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH**  
**JABALPUR**

**Original Application No.200/00211/2016**

Jabalpur, this Monday, the 17<sup>th</sup> day of June, 2019

**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER**

Smt. Vimla Bai age 58 years, wife of  
Late Shri Manoharlal Ahirwar, R/o H NO. 300, Karondi  
Ranjhi, Tahsil and District Jabalpur (MP) **-Applicant**

(By Advocate –**Shri Alabhyा Bajpai**)

**V e r s u s**

1. Union of India, through its Secretary,  
Ministry of Defence, Government of India,  
New Delhi-110001
2. The Controller General of Defense, Accounts  
(Head-Quarter Office), West Block-5, R.K.Puram  
New Delhi-66
3. The Principal Controller of Defense, Accounts (Pension)  
Draupadi Ghat, Allahabad-211014 (UP)
4. The Controller of Defense, (Pension Cell),  
Ridge Road, Jabalpur (MP)-482001
5. The Garrison Engineer, Military Engineering Services,  
(MES) (East), Jabalpur (MP)482001 **- Respondents**

(By Advocate –**Smt. Kanak Gaharwar**)

(Date of reserving the order:-02.05.2019)

**O R D E R**

This Original Application has been filed against the in action  
of the respondents whereby the benefits of family pension on  
behalf of her deceased brother has been denied.

2. The applicant has sought for the following reliefs in this Original Application:

**“8 Relief Sought:-**

*(i) To direct the respondents to generate a new PPO no. in the name of the present applicant and release the family pension along with the arrears with interest since the employee has deceased.*

*(ii) Grant any other relief/s which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case to the applicant.*

*(iii) Award cost of the instant lis to applicant.”*

3. Precisely the case of the applicant is that the applicant is the sister of deceased employee Tularam, who was appointed on the post of electrician (SK) in the establishment and stood retired on 31.07.2011. The brother of the applicant has served the respondent department for almost 40 years with utmost sincerity and devotion. The brother of the applicant suffered a severe paralytic attack and is no more in this world since 14.01.2015. Since the applicant being the successor and the nominee of the deceased employee, is now claiming the pensionary benefits on his behalf. A copy of the identity card of the brother of the applicant is being filed as Annexure A-1. The applicant is the nominee in the said pension account and also the beneficiary in the last will of the account holder Late Tularam.

4. The applicant has completed all the formalities and submitted all the requisite documents for release of the pension amount. The applicant has made representation dated 01.12.2015 submitted along with certain affidavits showing present applicant as the beneficiary of the deceased, a copy of which is annexed as Annexure A-2.

5. The deceased brother of the applicant was bed-ridden as he was denied to withdraw the funds from his saving account required for his treatment through his power of attorney holder and it can very well be said that the scarcity of funds due to denial of bank to withdraw money out of his hard earned money deposited in his saving bank account led to his untimely demise for want of medical care. A copy of certificate issued by Controller of defense Accounts (Funds) clearly depicting the Service certificate showing the PPO number which is annexed as Annexure A-3 & A-4. But the respondents did not reply to the representation of the applicant and respondent No.4 by way of letter dated 10.12.2015 has informed that the claim of the applicant has been initiated by respondent No.3. A copy of letter dated 10.12.2015 is annexed as Annexure A-5. The respondent No. 2 has also replied to the applicant with the same abbreviation but no action uptill now has been taken by respondent No.3.

6. The respondents have filed their reply and in the preliminary submission it has been submitted by the replying respondents that Shri Tularam has submitted an affidavit dated 28.09.2010 stated that now his wife is not living with him, therefore the name of his sister be entered as a nominee for the purpose of pension as well as terminal dues. A copy of which is annexed as Annexure R/4. Therefore, he was directed to produce Divorce certificate with his wife vide office letter dated 28.03.2011, a copy of which is annexed as Annexure R-5. It has been further submitted by the replying respondents that at the time of preparation of pension documents, the department has asked Tularam vide letter dated 30.08.2011 to produce/submit the details/documents with respect to family member/nominees. A copy of letter dated 30.08.2011 is annexed as Annexure R/6. It has been specifically submitted by the replying respondents that Shri Tularam has failed to submit the same. The office has repeatedly asked the employer to submit documents like bank details, joint photographs for preparation of pension papers. After several correspondence with the employees, finally pension documents has been completed on 17.11.2012 without nomination for family pension on the pretext that the wife of employee had deserted him about 40 years ago. Therefore, the pension has been sanctioned provisionally vide PPO dated

20.06.2014 without any detail. A copy of which is annexed as Annexure R-7 and pension document is annexed as annexure R/8.

7. It has been submitted by the replying respondents that the applicant is not entitled for family pension because as per rule, in the case of widow or widower, up to the date of death or re-marriage, whichever is earlier, in the case of a son he attains the age of twenty-five years, in the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever, is earlier would be entitled for family pension.

8. In the main reply the replying respondents has further submitted that the impugned action by the respondent department does not suffer from any illegality. It has been admitted by the replying respondents that Shri Tularam was an employee of organization and retired on 31.07.2011 and during lifetime of wife/son rather class I heir, sister can't be a beneficiary of family pension when her husband is alive and she cohabit with him.

9. It has been categorically denied by the respondents that the applicant is a nominee of the deceased employee. It has been submitted by the replying respondents that Shri Tularam has not mentioned name of applicant as nominee neither in family declaration nor in pension documents. The answering respondents submitted that in PPO, no details as to whom family pension is to

be disbursed has been given by Shri Tularam and hence pensionary benefit as claimed by the applicant is devoid of any merit.

**10.** The replying respondents has further submitted that without any nomination for family pension in PPO, department shall not be able to disburse family pension to a non entitled person. Though pension is a property of Govt. servant but can't be claimed by person who is not entitled barring the lawful claimant i.e. wife and son.

**11.** The applicant has filed the rejoinder to the reply filed by the respondents. The applicant has reiterated its earlier stand made in the Original Application. It has been submitted by the applicant that the deceased filed an affidavit and expressed his wish that his wife is not living with him and the name of the applicant be entered as a nominee for the purpose of family pension. The respondents demanded a divorce certificate which nowhere a requirement of law to substitute the nominee in the service record and without giving effect to the wishes of the deceased. It has been specifically submitted by the applicant that the husband of the applicant passed away on 21.04.2011 and as per rule of the relevant provision of CCS (Pension) Rules, 1972 "widow sister" is mentioned in the rule. A copy of death certificate of the applicant dated 21.04.2011 is annexed as Annexure A-7.

**12.** The replying respondents have also filed the additional reply to the rejoinder filed on behalf of the applicant. It has been categorically denied by the respondents that the applicant was the nominee of the deceased employee. It has been further submitted by the replying that Late Shri Tularam has not furnished the name of the applicant as a nominee neither in family declaration nor in pension document. Late Shri Tularam has submitted an affidavit dated 28.09.2010 declared his sister as a nominee in pension document which is in contravention of law. So the applicant was directed to produce the decree of divorce with his wife issued by the competent authority vide letter dated 28.03.2011 but he fail to produce the same. So dis-allowance of claim for pensionary benefits without any legal sanction is as per rule of law.

**13.** We have heard the learned counsel for the parties and have gone through the documents attached therewith.

**14.** From the pleadings it is clear that the applicant is the sister of deceased employee Tularam, who was appointed on the post of electrician under the respondent department and stood retired on 31.07.2011. The contention of the applicant is that the brother of the applicant suffered a severe paralytic attack and the applicant being the successor and the nominee of the deceased employee, is

entitled for pensionary benefits. The applicant has relied upon the affidavit filed by her deceased brother vide Annexure A-2.

**15.** On the other side, the contention of the respondent department is that there is no nominee which has been indicated in the documents available with the respondent department. It has been specifically submitted by the replying respondents that the deceased has submitted an affidavit dated 28.09.2010 stated that now his wife is not living with him, therefore the name of his sister be entered as a nominee for the purpose of pension as well as terminal dues. It has been specifically submitted by the replying respondents that the applicant was directed to produce Divorce certificate with his wife vide office letter dated 28.03.2011 (Annexure R-5). It has been further submitted by the replying respondents that at the time of preparation of pension documents, the department has asked Tularam vide letter dated 30.08.2011 to produce/submit the details/documents with respect to family member/nominees. A copy of letter dated 30.08.2011 is annexed as Annexure R/6. Despite the repeated request from the department to submit the documents like bank details, joint photographs for preparation of pension papers, he failed to submit the relevant documents. After several correspondence with the employees, finally pension documents has been completed on 17.11.2012

without nomination for family pension on the pretext that the wife of employee had deserted him about 40 years ago. Therefore, the pension has been sanctioned provisionally vide PPO dated 20.06.2014 without any detail (Annexure R-7).

**16.** The main contention of the replying respondents is that the applicant is not entitled for family pension because as per rule, in the case of widow or widower, up to the date of death or re-marriage, whichever is earlier, in the case of a son he attains the age of twenty-five years, in the case of an unmarried daughter, until she attains the age of twenty five years or until she gets married, whichever, is earlier would be entitled for family pension.

**17.** The respondent department has attracted our attention to Section 54 of Central Civil Services (Pension) Rules, 1972 which is regarding family pension. Under Rule 54(14)(b) family has been defined, which is as under:

**“54. Family Pension 1964**

**(14)(b)** “family” in relation to a Government servant means-

(i) wife in the case of a male Government servant, or husband in the case of a female Government servant,  
NOTE 1.-Deleted.

NOTE 2.-Deleted.

(ia) a judicially separated wife or husband such separation not being granted on the ground of adultery[\*\*\*] and the person surviving was not held guilty of committing adultery.

[(ii) unmarried son who has not attained the age of twenty-five years and unmarried or widowed or

divorced daughter, including such son and daughter adopted legally;  
(iii) dependent parents;  
(iv) dependent disable siblings (i.e. brother or sister) of a Government servant.]

**18.** From this clause it is itself clear that only brother or sister who are dependent disabled siblings are within the definition of family for the purpose of pension. In the instant case, the case of the applicant is otherwise.

**19.** In the instant case, the case of the applicant is that her brother(employee) has suffered a paralytic stroke and the applicant was serving the employee and the wife of the applicant has deserted her husband. So in the present circumstances, the rules regarding the family pension is very clear and the applicant is not entitled for family pension.

**20.** In view of the above we do not find any reason to interfere with the action of the respondent department. Resultantly, the Original Application is dismissed. No order on costs.

**(Ramesh Singh Thakur)  
Judicial Member**

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