

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01006/2017

Jabalpur, this Thursday, the 02nd day of May, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER

Smt. Anita Katare (Bain),w/o Late Shri Suresh Katare, age about 42 years, Occupation – Unemployed, C/o Shri Shankar lal Bain, R/o House No.1534, Narsing Nagar, Chandra Shekhar Ward, Ranjhi, Jabalpur (M.P.) 482005, Mobile No. – 9691143346

-Applicant

(By Advocate – Shri K. K. Bassi)

V e r s u s

1. Union of India through its Secretary, Ministry of Defence, South Block, New Delhi 110001.
2. Chief C.D.A. (Pensions), Dropati Ghat, Allahabad, (U.P.) 211001.
3. Garrison Engineer (West), Military Engineer Service – 901124, C/o 56 APO Jabalpur (MP) **- Respondents**

(By Advocate – Shri D.S. Baghel)

O R D E R (O R A L)

The applicant, a divorcee daughter, is seeking family pension through this Original Application. She has also filed MA No.200/863/2017 for condonation of delay in filing this Original Application.

2. In view of the averments made in the application for condonation of delay, MA is allowed and delay in filing the Original Application is condoned.

3. The undisputed facts of the case are that father of the applicant was working under the respondent No.3. He died while in service on 25.12.1992.

3.1 After the death of the applicant's father, the family pension was being paid to her mother Smt. Kuwar Bai, who died on 12.01.2013 (Annexure A-3).

3.2 She filed a divorce petition before the Family Court at Jabalpur on 25.10.2013 where the divorce was decreed on 02.05.2014 (Annexure A-4).

3.3 The applicant applied for family pension, which was rejected on 03.08.2015 (Annexure A-7).

4. She has, therefore, sought for the following reliefs:

“8. RELIEF SOUGHT:

It is therefore prayed that this Hon'ble Tribunal may kindly be pleased to :

- 8.(i) Summon the entire relevant record from the respondents for its kind perusal;
- 8.(ii) Set aside the order dated 03.08.2015 (Annexure A-7) passed by the respondent No.3.
- 8.(iii) Direct the respondents to provide the family pension to the applicant with arrears w.e.f. 07.07.2014 after preferred

representation by the applicant to provide family pension with 18% interest.

8.(iv) Any other order/orders, direction/directions may also be passed.

8.(v) Award cost of the litigation to the applicant.”

5. The respondents have submitted that the applicant was not a divorcee daughter at the time of death of her mother on 12.01.2013. They have placed reliance on DoP&T's OM dated 11.9.2013 (Annexure R-1) and 19.07.2017, which was taken on record on date.

6. Heard learned counsel for the parties and perused the pleadings available on record.

FINDINGS

7. Para 4 of Office Memorandum dated 11.09.2013 (Annexure R-1) reads as under:

“4. It is clarified that the family pension is payable to the children as they are considered to be dependent on the Government servant/pensioner or his/her spouse. A child who is not earning equal to or more than the sum of minimum family pension and dearness relief thereon is considered to be dependent on his/her parents. Therefore, only those children who are dependent and meet other conditions of eligibility for family pension at the time of death of the Government servant or his/her spouse, whichever is later, are eligible for family pension. If two or more children are eligible for family pension at that time, family pension will be payable to each child on his/her turn provided he/she is still eligible for family pension when the turn comes. Similarly, family pension to a widowed/divorced daughter is payable provided she fulfills all eligibility conditions at the time of death/ineligibility of her parents and on the date her turn to receive family pension comes.”

8. Further, para 6 of the Office Memorandum dated 19.07.2017 regarding eligibility of divorced daughters for grant of family pension reads as under:

“6. The matter has been examined in this department in consultation with Department of Expenditure and it has been decided to grant family pension to a divorced daughter in such cases where the divorce proceedings had been filed in a competent court during the life-time of the employee/pensioner or his/her spouse but divorce took place after their death – provided the claimant fulfils all other conditions for grant of family pension under rule 54 of the CCS (Pension) Rules, 1972. In such cases, the family pension will commence from the date of divorce.”

9. In this case, it is clear that the employee of the respondent department died on 25.12.1992 and his spouse expired on 12.01.2013 (Annexure A-3). Perusal of the judgment of the Family Court (Annexure A-4) clearly mentions that the application for divorce was filed on 25.10.2013. It is evident that the divorce proceedings have commenced after the death of family pensioner. Therefore, in terms of Para 6 of Office Memorandum dated 19.07.2017, the applicant is not entitled for grant of family pension.

10. Accordingly, O.A is dismissed. No costs.

**(Navin Tandon)
Administrative Member**

am/-