

**CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi**

OA 562/2018

Reserved on:03.01.2019
Pronounced on :07.01.2019

Hon'ble Ms. Praveen Mahajan, Member (A)

Smt. Tripta Gupta
W/o late Shri Ashok Kumar Gupta
R/o C/o Smt. Prakash Sudan
C-108/1, Bounty Apartments
Shalimar Garden, Extn.II
Sahibabad,
Ghaziabad (UP)-201005. Applicant

(By Advocate: Shri M.D. Jangra)

VERSUS

1. Union of India
Through its Secretary
Ministry of Urban Development
Govt. of India, CPWD
Nirman Bhawan
New Delhi – 110 008.
2. The Director General
CPWD
Ministry of Urban Development
Govt. of India, A-Wing
Room No.101, Nirman Bhawan
New Delhi – 110 008.
3. The Chief Engineer (CSQ)
CPWD, Zone-I
3rd Floor, Room No.336A
Nirman Bhawan
New Delhi – 110 008.
4. Ms. Anjali Gupta
D/o late Shri Ashok Kumar Gupta
W/o Shir Apin Singhal
R/o C-228, Janakpuri
New Delhi – 58.

(By Advocate:Shri Rajinder Nischal
Shri Shafiq Khan for R-4 & 5)

ORDER

The present OA has been filed by the applicant seeking the following reliefs :-

- "(i) To direct the respondents to release family pension as well as other terminal dues such as gratuity, leave encashment and GPF and make the required payment of aforesaid benefits i.e. Family Pension, Gratuity, Leave Encashment, GPF etc. with 18% interest and set aside impugned order dated 11.01.2018 (Annexure A-1).
- (ii) To summon the entire service record of the deceased employee from the respondent for its kind perusal.
- (iii) To allow the OA with cost.
- (iv) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. The brief facts of the case are that the applicant's husband, namely, Shri Ashok Kumar Gupta, who was working as UDC with the respondents expired on 16.03.2017. The applicant who is the second wife of the deceased employee submitted the relevant

pension papers to the Chief Engineer (CSQ), CPWD, Nirman Bhawan, New Delhi on 12.06.2017. This was followed by a legal notice served on the respondents on 14.07.2017 for releasing retirement benefits and family pension as per CCS (Pension) Rules, 1972. Getting no favourable response the applicant filed OA No.3623/2017 to release the family pension and other retirement dues of her deceased husband. The Tribunal disposed of the OA on 13.10.2017 with directions to the respondents to pass a reasoned and speaking order.

3. The claim of the applicant has been rejected vide impugned order dated 11.01.2018 stating that the retiral benefits are not payable to the applicant since her name does not figure in the nomination papers of late Shri Ashok Kumar Gupta and official documents of Shri Ashok Kumar Gupta show that he had nominated his daughter Ms. Anjali Gupta to receive the GPF, gratuity, CGEGIS etc.

4. The respondents in their counter affidavit submit that the applicant, second wife of the applicant, is not entitled for family pension of late Shri Ashok Kumar Gupta, who had not shown her as a nominee in his service record. Further, the applicant in the OA has not produced any succession certificate in this regard, to

substantiate her claim that she is the legally wedded wife of the deceased employee.

5. During the course of hearing, both sides reiterated the contentions already raised in the OA and the counter affidavit respectively.

6. The learned counsel for the applicant, Shri M.D. Jangra drew my attention to the additional affidavit filed by the applicant on 09.03.2018, vide which certain documents have been annexed showing that the applicant Smt. Tripta Gupta, is the legally wedded wife of late Shri Ashok Kumar Gupta and the rightful claimant for family pension and other retiral benefits.

7. Per contra, the learned counsel for the respondents, Shri Rajinder Nischal forcefully argued that there is no evidence to show that marriage took place between the applicant and Shri Ashok Kumar Gupta. This claim has not been substantiated by way of a marriage certificate or a valid Succession Certificate – hence the claim of the applicant cannot be entertained as per rules.

8. On going through the facts of the case, I find that late Shri Ashok Kumar did not intimate the department regarding his second marriage with Smt. Tripta Gupta and no such official or legal document has been produced by the applicant either.

However in various documents produced by the applicant, like the CGHS Card and Aadhar Card the name of the applicant figures as wife of the deceased.

9. The counter affidavit of private respondents no.4 & 5 (daughter and son of the late Shri Ashok Kumar Gupta) also confirms that the applicant is their second/step mother being wife of late Shri Ashok Kumar Gupta (para 4.12 of the counter reply filed by the respondents no.3 & 4).

10. There is thus overwhelming evidence to lead one to believe the claim of the applicant that she is the second wife of deceased Shri Ashok Kumar Gupta. Unfortunately, the deceased employee did not inform the respondents about his second marriage and in the nomination papers of late Shri Ashok Kumar Gupta only name of his daughter Ms. Anjali Gupta is mentioned.

11. As regards family pension, the Rules indisputably are in favour of the wife of the deceased employee but it is incumbent upon her to prove that she is the wife of the deceased which can only be done by way of a succession certificate. In the interim, the respondents are directed to consider the case of the applicant for grant of provisional family pension till such time she obtains a legal succession certificate. Her claim for other retiral benefits may be taken up for decision after the succession certificate is

produced by the applicant. OA is disposed of with these directions. No costs.

**(Praveen Mahajan)
Member (A)**

uma