

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1088/2019

Order Reserved on: 11.10.2019
Order Pronounced on: 23.10.2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Smt. Anita, Age 45 years,
Group 'C',
W/o late Sh. Suresh Chand,
P-43/4, CVD Delhi Cantt.
New Delhi-110010 - Applicant

(By Advocates: Ms. Neelima Rathore for Mr. U. Srivastava)

VERSUS

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi
2. Controller of Defence Account,
Integrated HQ of MoD (Army)
DHQ, PO, New Delhi-110011
3. Commandant,
Office of the CDA (Army)
Belvedere Complex, Ayughpath,
Meerut Cantt (UP)-250001
4. Commandant Base Hospital,
Delhi Cantt, New Delhi-110010
5. Principle Controller of Defence Accounts,
Darupadi Ghat, Allahabad (UP) - Respondents

(By Advocate: Mrs. Anupama Bansal)

O R D E R

The applicant has filed this Original Application (OA), seeking the following reliefs:-

- “a) quash and set aside impugned letter No. Civ/07/Disc/2019 dated 10.01.2019. And/or
- b) direct respondents to release entire pensionary and retiral benefits including Family Pension to the applicant alone being widow of late Suresh Chand ex. Govt. Employee and pass direction to the respondents to not to make any kind of distribution in said retiral & pensionary benefits. And /or
- c) direct respondents to endorse name of the daughter of applicant i.e. Disha Kanojia in the service documents of her husband.
- d) any other relief which the Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. The applicant in this case is mainly aggrieved by the order dated 10.01.2019 issued by the respondents whereby the representation-cum-legal notice dated 25.12.2018 of the applicant was rejected on the grounds, namely, (i) distribution of the family pension & other service benefits is based on the nomination made by the service personnel himself, of his own wish. This office has no authority in amending/changing the service records after the death of service man and the same may be done by the AAO/PCDA; and (ii) This office has not curtailed/influenced the

fundamental rights of any legal heirs as per the documents held in this office.

3. The applicant has challenged the aforesaid impugned order on the grounds that the respondent no.3 had already issued PPO No. 0028794 dated 31.03.2018 mentioning the share of 100% in her favour and therefore, changing the service records after the death of her deceased husband does not curtail/influence the fundamental rights of the legal heirs in any way as they are the children of the first wife and presently all the three children are married and above the age of 25 years. The applicant has further pleaded that she met with the respondent along with all required documents and requested to enter her daughter Disha's name in the service document of her late husband and grant pensionary and retiral benefits to her but she was intimated that her daughter's name would be endorsed but they cannot do anything with respect to pensionary and retiral benefits which will be distributed among all three children and to the applicant equally and the department is forcing the applicant for signature over said document and threatening to make recovery which is not justified as the CDA, Meertu have issued PPO by mentioning the her name as nominee and 100% share in her favour for pensionary and retiral benefits and therefore,

she alleges that withholding of pensionary and retiral benefits are illegal on death of her husband and is also against the law. Being aggrieved with this inaction of the respondents, the applicant has filed the present OA.

4. During the arguments, Mrs. Anupama Bansal, counsel for the respondents, has submitted that they are willing to give the family pension to the applicant but they are unable to process the same as the applicant herself is not furnishing the required documents/not signing the documents for the release of family pension. But as far as release of service benefits in the name of the daughter of the applicant is concerned, she has submitted that they are unable to release the same in the name of her daughter because in the nomination papers, late husband of the applicant, during his life time, had nominated the applicant being the second wife and three children, namely Pallavi, Himanshu and Shilpa from his first wife as equal share holders of his all service benefits. They have also contended that her deceased husband in his life time had neither submitted the death certificate of his first wife nor was the second marriage with the applicant (second wife) published, as he did not produce the marriage certificate. They have also contended that the medical claim for the delivery of the daughter of the applicant was neither

claimed from the office by her deceased husband nor was her daughter's name endorsed in the service documents of deceased employee. They have also denied the averments made by the applicant that service benefits of her deceased husband be not given to the children of first wife of the deceased as all of them have attained majority. They have also contended that no PPO has been issued to the applicant till date. However, they have fairly stated that they will have no objection to consider the claim of the applicant for endorsement of her daughter in the service record of the her late husband once she is able to obtain the succession certificate in favour of her daughter from the Civil Court.

5. From the above, it is clear that the respondents are willing to give family pension to the applicant but it is being delayed on the part of the applicant herself as she is not providing the required documents/not signing the documents for processing the same. Hence, in view of the same, the applicant is directed to complete her family pension papers and apply for the same within 30 days from the date of receipt of a copy of this order and within 90 days thereafter, the respondents shall pay the family pension to the applicant.

6. We have also examined the nomination papers placed at Annexure R-2 with Counter Affidavit filed by the respondents. A perusal of the same reveals that the late husband of the applicant had nominated the applicant and three children of her first wife for the equal share of his service benefits. Hence, the respondents have been able to show from their record that the deceased husband of the applicant during his life time, had never endorsed the daughter's name of the applicant in his service documents nor was the second marriage with the applicant (second wife) published on account of non-submission of the marriage certificate by her late husband and to the contrary, the applicant has not been able to produce any evidence or material on record. Hence, it cannot be said that the daughter of the applicant is the legal heir of the her deceased husband for the purpose of getting his service benefits. However, in case the applicant is able to obtain the succession certificate in favour of her daughter's name from the Civil Court, she may present her claim for processing to the respondents in accordance with law.

7. We have examined the PPO produced by the applicant at Annexure A-2 and find it not being issued by the competent authority. The plea of the applicant that the

service benefits be not given to the legal heirs of the deceased employee as they attained majority is not tenable in the eyes of law as it is neither supported by authority of law nor by any rules on the subject.

8. With the above directions, the OA is disposed of. No order as to costs.

(Nita Chowdhury)
Member (A)

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