

**OCENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**O.A. No.60/562/2018**

**Date of decision: 13.09.2019**

**(Reserved on: 29.8.2019)**

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).**

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Smt. Radha Rani Wd/o Sh. Krishan Lal, R/o VP&O Purhiran, Distt. Hoshiarpur (Gr. C), aged 51 years.

**...APPLICANT**

**VERSUS**

1. Bharat Sanchar Nigam Ltd., Corporate Office, 3<sup>rd</sup> Floor, Bharat Sanchar Bhawan, Harish Chander Lane, Janpath, New Delhi. Through its Chairman-cum-Managing Director.
2. Chief General Manager, BSNL, Punjab Circle, Sector-34, Chandigarh.
3. General Manager, Telecom Distt., BSNL, Hoshiarpur.
4. SDE (HR) office of the Chief General Manager, Telecom Distt., BSNL, Hoshiarpur.
5. Controller of Communication A/cs, Punjab Telecom Circle, Madhya Marg, Sector 27-A, Chandigarh.

**...RESPONDENTS**

**PRESENT:** Sh. V.K. Sharma, counsel for the applicant.

Sh. Rajesh Gupta, counsel for respondents No.1 to 4.

Sh. K. K. Thakur, counsel for respondent no.5.

**ORDER**

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**SANJEEV KAUSHIK, MEMBER (J):-**

1. Smt. Radha Rani Wd/o Sh. Krishan Lal is before this Court for issuance of a direction to the respondents to allow her family pension, extra ordinary pension, under Central Civil Service (EOP) Rules w.e.f. 4.12.2005, as her husband died in an accident while in service.
2. Facts broadly are not in dispute.

3. Late husband of Smt. Radha Rani Sh. Krishan Lal was working with erstwhile DoT and on formation of BSNL w.e.f. 1.10.2000, he was absorbed in BSNL. While he was on duty on 03.12.2005, while performing duty, he met with a fatal accident at site and died due to head injury. Post mortem report to this effect is appended as (Annexure A-4). Respondents considered death of late Sh. Krishan Lal as death in normal course and granted family pension to the applicant at the normal rate. The applicant for the first time served legal notice on 23.12.2015 for grant of extra ordinary pension as her husband had died while performing duties of department, which was not replied to by the department. Her case was reconsidered and vide communication dated 2.11.2018, information was provided under RTI that Committee which was constituted for this purpose investigated the case for extra ordinary pension and lump sum compensation, has opined otherwise, thus, she cannot be granted benefit. Hence, applicant is before this Court.
4. In support of the above plea, Sh. V.K. Sharma, learned counsel for the applicant, vehemently argued that once a committee which was constituted for this purpose at the time of death of her husband has opined in favour of the applicant that late Sh. Krishan Lal, Telecom Mechanic, died in fatal accident while performing duty and has forwarded case for grant of extra ordinary pension then, action of the respondents in not accepting report and not granting extra ordinary pension under CCA (Pension) Rules, 1974, is illegal, arbitrary and thus direction may be issued to them to grant her extra ordinary pension from the date when it became due. He also submitted that vide communication dated 29.1.2018 (Annexure A-2), applicant has been

informed that her case is still under investigation, therefore, he submitted that respondents cannot take plea of delay and laches as the matter is still pending consideration.

5. Respondent BSNL and Controller of Communication have filed their independent replies and have contradicted the averments made in the O.A. Firstly, they have taken ground of delay in approaching this Court and have submitted that since applicant has come after unexplained delay of 13 years from the date of cause of action, therefore, O.A. may be dismissed being hopelessly time barred. It has also been submitted therein that in the year 2005, the matter was examined and competent authority at that time had decided to grant her family pension under 1974 Rules, which applicant accepted without there being any hesitation and continued to get pension as such. She cannot be allowed to turn around now after about 13 years and to request that her case for grant of extra ordinary pension be considered at this belated stage.
6. Respondent No.5 has filed separate reply, wherein apart from the objection raised by other respondents with regard to delay, it has been submitted that on expiry of husband of the applicant on 3.12.2005, her case was finalized and she was granted family pension and other benefits. Her family pension was stopped by Post Master Purhian, Hoshiarpur w.e.f. 28.5.2010 after re-marriage of applicant. Her pension was again restored on 8.2.2016 on receipt of her representation stating that she is a childless widow and in terms of policy in the matter, pension as restored. Thereafter, she submitted representation for grant of extra ordinary pension under 1939 Rules, which has been examined and claim did not find favour with

competent authority. It has also been submitted that case of the applicant is also barred by Column I and II of Extraordinary Pension Rules, 1939, if an application is filed where injury was sustained more than five years before the date of application or after the death which occurred more than seven years, such application cannot be entertained. Since husband of the applicant died on 3.12.2005 and she moved after a gap of 10 years thus she cannot be granted benefit.

7. In support of his plea, learned counsel reiterated what has been noted above.
8. I have given my thoughtful consideration to entire matter.
9. It is not in dispute, as noticed above, that husband of the applicant Sh. Krishan Lal (Telephone Mechanic) died on 3.12.2005. Applicant being legal heir was sanctioned family pension under CCA (Pension), Rules, 1974, which was accepted by her. As noticed above, pension was stopped on remarriage of the applicant but later on restored, in terms of policy that even after remarriage, childless widow is entitled to family pension. Even if grievance of the applicant for grant of family pension under Extraordinary Pension Rules, 1939, in terms of departmental investigation report (Annexure A-1) is considered, Rules suggest that the belated request cannot be accepted. The applicant for the first time move an application after more than 10 years for the cause of action which arose in her favour in the year 2005 when her husband had died. There is no explanation for long delay. Merely saying that pension is continuous cause of action is not sufficient, because in this case applicant has already been granted family pension in the year 2005 and now, she is raising a plea for grant of

under family pension under Extraordinary Pension Rules, which was available to her in the year 2005. Rules do not permit to reopen the old cases where the injury was sustained more than five years before the date of application or after the death which occurred more than seven years, as noticed above.

10. Thus, I do not find any reason to issue writ in nature of mandamus directing respondents to consider case of the applicant for grant of extraordinary pension. The legality of impugned order is upheld. The O.A. is accordingly dismissed being devoid of merit. No costs.

**(SANJEEV KAUSHIK)  
MEMBER (J)**

Date: 13.09.2019  
Place: Chandigarh.

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