

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

14

OA-2534/2003

New Delhi this the 27th day of July, 2004.

Hon'ble Shri Shanker Raju, Member(J)

Smt. Bhateri Devi,
W/o late Sh. Daya Nana,
R/o H.No. 2053, Gali No.1,
Ghandi Nagar,
Rajgarh Extension,
Delhi-31. Applicant

(through Sh. Yogesh Sharma, Advocate)

Versus

1. Union of India through
the Secretary,
Ministry of Defence,
Govt. of India,
South Block,
New Delhi.
2. The Director,
Defence Research & Development
Laboratory, Kanchan Bagh,
PO Hyderabad. Respondents

(through Sh. Rajeev Bansal, proxy for Sh. B.K.
Aggarwal, Advocate)

ORDER (ORAL)

Hon'ble Shri Shanker Raju, Member(J)

Heard.

2. Under Rule 54 of CCS(Pension) Rules, 1972
grant of family pension is admissible to those who had
completed one year continuous service.

3. As a clarification DoP&T vide OM dated
24.10.1986 conveyed the approval of the President to
extend to the families of those government servant who
died before one year continuous service the benefit of
family pension prior to 27.1.1979 for giving effect of



the concerned provision. However, this is subjected to a condition that the deceased should have been appointed after he has been examined by the appropriate medical authority. In this view of the matter, learned counsel of the applicant states that as the deceased was appointed after due medical examination, O.M. dated 24.10.1986 operates and allows the applicability of Rule 54 upon the deceased applicant as well the legal heirs, who are entitled for family pension.

4. On the other hand respondents' counsel states that the applicant if at all be medically examined has to be granted the benefit after completion of one year continuous service.

5. I am of the considered view that promulgation of Rule 54 in Gazette Notification dated 27.1.1990 which provides family pension to the legal heirs of the deceased who died before completion of one year continuous service and would be extended retrospectively subject to medical examination of concerned before appointment. It is trite one that who is appointed regularly in government service is subjected to medical examination.

6. As the issue pertained to the year 1964, as per respondents also, the record had been destroyed. Whatever is available has been annexed with the reply of the respondents which is a sheet of Daily Order Part-II DR&DL which shows deceased applicant on the strength of respondents. On his appointment the strength had been decreased and the deceased was given Token No.124. This

clearly shows that the deceased was on the regular strength, failure to produce any other record an adverse inference is to be drawn.

7. As the regular appointment preempts medical examination which has not been proved to contrary and for want of ascertainment of this ground, benefit of doubt certainly goes in favour of the applicant particularly when the question of family pension being a welfare ^{measure} is concerned.

8. One of the other contentions put forward is limitation in the light of decision of Apex Court in S.K. Mastan Bee Vs. the G.M. South Central Railway & Anr. (2003(1)SC SLJ 136) grant of family pension to a widow of the deceased government servant who died in 1969 which was claimed in 1991. Apart from it in the matter of pension which is a recurring cause of action, law of limitation would not apply. Accordingly, the objection raised is overruled.

9. Accordingly, I am of the considered view that the deceased has fulfilled the condition laid down in O.M. dated 24.10.1986. Accordingly, the LRs are entitled to the family pension which shall be disbursed to them with all arrears within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

/vv/