

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

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**O.A. No.60/1378/2018  
M.A. No.60/210/2019**

**Date of decision: 11.10.2019**

**(Reserved on: 16.09.2019)**

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

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Balwant Kaur Dua, age about 62 years, wd/o Late Sh. Manjit Singh Dua, retired Income Tax Officer, through her Power of Attorney Nikhil Aggarwal, resident of C-49, Villa RPS Green Valley Society, Sector 41-42, Faridabad, Haryana-121001. Group B.

**...APPLICANT**

**VERSUS**

1. Union of India through its Secretary, Govt. of India, Ministry of Finance, Department of Revenue, North Block, Parliament Street, New Delhi-110001.
2. Principal Chief Controller of Accounts, Zonal Accounts Office, Central Zone of Direct Taxes, Income Tax Department, 3<sup>rd</sup> Floor, CR Building, Maqbool Road, Amritsar, Punjab-143001.
3. Principal Commissioner of Income Tax, Govt. of India, Income Tax Department, Aayakar Bhawan, Rail Head Complex, Panama Chowk, Jammu, Jammu & Kashmir-180004.
4. Pay & Accounts Officer, Central Pension Accounting Office, Ministry of Finance, Govt. of India, Trikoot II Complex, Bhikaji Cama Place, New Delhi-110003.

**...RESPONDENTS**

**PRESENT:** Sh. Barjesh Mittal, counsel for the applicant.  
Sh. K. K. Thakur, counsel for the respondents.

**ORDER**

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

1. Solitary question that arises for consideration in this O.A. is whether applicant, who happens to be widow of the deceased Govt. Servant, is entitled to family pension under provisions of Central Civil Servant

(Pension), Rules, 1972, (for short 1972 Rules) notwithstanding the fact that her husband, in his nomination, has not included her name.

2. Facts broadly are not in dispute.
3. Smt. Balwant Kaur Dua, widow of late Sh. Manjit Singh Dua, is before this Court seeking issuance of a direction to the respondents to grant her family pension in accordance with CCS (Pension) Rules, 1972 from the due date i.e. 27.2.2017 along with all consequential benefit admissible under the law. Late husband of the applicant Sh. Manjit Singh Dua was working as Income Tax Officer in the office of respondent no.3 and retired on attaining the age of superannuation on 31.10.2007. He was in receipt of pension. He, unfortunately, died on 26.2.2017 due to brain stroke. After his death, applicant approached respondent no.3 for converting pension of her husband in her name there being no other source of her income and having three unmarried children. Affidavit to this effect has also been filed. The applicant was informed by office of respondent no.3 that prior to his death, her husband had filed a changed nomination in official record desiring that after his death no member of his family be authorized family pension. She submitted a representation on 15.3.2017 followed by another representation dated 20.9.2017. Her case was processed but she was informed that since her husband did not nominate her in the nomination form, therefore, she is not entitled to family pension under 1972 Rules. Against that objection, the applicant is before this Court.
4. The applicant has taken various grounds for invalidation of the impugned order.
5. Sh. Barjesh Mittal, learned counsel for the applicant, vehemently argued that action of the respondents in rejecting claim of the

applicant is illegal, arbitrary and contrary to rule formation. He argued that under Rule 54 of 1972 Rules, wife has first right for family pension on demise of her husband. Thus he submitted that action of the respondents in rejecting her case, on the ground that her husband has not mentioned her name in nomination forms, thus she cannot be granted pension, be set aside and respondents may be directed to give her family pension.

6. To buttress his claim, he placed reliance on the following judgments
  - i. **G.L. Bhatia vs. Union of India & Another**, reported as 1999 (5) SCC 237.
  - ii. **Jodh Singh vs. Union of India & Anr.**, reported as 1980 AIR (SC) 2081.
  - iii. **Smt. Violet Issac and others vs. Union of India and others**, reported as 1991 (1) SCC 725.
  - iv. **Rajo Bai Patru vs. State of Chattisgarh and others**, reported as 2018 LIC 1446.
  - v. **Vishal Kumar Barnwal vs. State of Jharkhand**, reported as 2013 (22) SCT 44.
  - vi. **Abedakhatun Y. Malek vs. Director of Pension and Provident Funds and others**, reported as 2012 (3) SCT 15.
7. Respondents have resisted the claim of the applicant by filing detailed written statement wherein they have not disputed the factual accuracy of the matter with regard to date of retirement and death of husband of the applicant. They have further submitted that in terms of rules governing pension, the applicant is not entitled to grant of family pension. It is submitted that in terms of Rule 89 (2)(iii), since name of the applicant does not find mention in nomination for Death cum Retirement Gratuity or Family Pension, thus she is not entitled to family pension.
8. In support of the above plea raised at the hands of the respondents, Sh. K. K. Thakur, learned counsel for the respondents submitted that since the deceased employee has categorically informed in writing that

after his death any member of his family will not be authorized for family pension and has withdrawn nomination made prior in time, therefore, he submitted that applicant is not entitled to family pension, thus, he prayed that O.A. be dismissed being devoid of merit.

9. I have given my thoughtful consideration to matter and have gone through rule formation and pleadings available on record.

10. Chapter 7 of 1972 Rules deals with regulation of amount of pension. Rule 55 in particular deals with family pension. Rule 54 sub rule 6(i) talks of period for which family pension is payable shall be as follows

*"(i). subject to first proviso, in the case of a widow or widower, up to the date of death or re-marriage, whichever is earlier."*

Rule 54 (8)(i) talks of grant of family pension to widow or widower in case of death of Govt. Servant.

*"54(8)(i) Except as provided in sub-rule 7, the family pension shall not be payable to more than one member of the family at the same time."*

*(ii). If a deceased Government servant or pensioner leaves behind a widow or widower, the family pension shall become payable to a widow or widower, failing which to the eligible child."*

Rule 54 (14)(b) defines 'family' in relation to Govt. servant as wife in the case of male govt. servant and husband in the case of female govt. servant has prior right for pension. For convenience the same reads as under:

*"54 (14)(b)(i) "family" in relation to a Government servant means- Wife in the case of male Government servant, or husband in the case of a female Government servant."*

11. The above quoted rules make it clear that in case of death of a Govt. Servant either it is husband or wife (either spouse) becomes eligible for grant of family pension. Claim of the applicant for grant of family pension has been rejected only on the ground that her name does not find mention in nomination form and prior to death, her husband had

not nominated her name and had specifically authorized employer not to give pension to any of his family member after his death. The issue of family pension came up for consideration before various Courts of law wherein it has been held that family pension cannot be said to be estate of deceased employee. It is a beneficial piece of legislation for benefit of deceased employee. Thus an employee has no right or concern to forbid employer from giving family pension to family members. As noted above, Rule 54 of 1972 Rules deal with grant of family pension and as per the Rule 54 (6)(i) widow or widower is entitled to family pension and Rule 54 (8)(ii) makes it more than clear that widow or widower has prior right for receipt of family pension. Family has been defined in Rule 54(14)(b)(i), wherein also wife in the case of male Govt. servant and husband in the case of female Govt. servant has prior right.

12. Thus, view of the respondents in rejecting claim of the applicant cannot be accepted being contrary to rule formation. In the case of G.L. BHATIA (supra), there was an estranged relationship between the spouses. Nomination of the wife (Central Government servant) was not in favour of the husband. He was also staying away from his wife. After the demise of the Government servant, when the husband made a claim for disbursement of family pension under the provisions of the 1972 Rules, agreeing with the authorities that since the nomination was not in favour of the husband, he would not be entitled to family pension, the Court declined his request,. Testing the correctness of same, the apex Court, at para 2 of the judgment held as follows:-

“The sole question that arises for consideration in this appeal is whether the appellant, who happens to be the husband of the deceased government servant, is entitled to family pension under the provisions of the Central Civil Services (Pension) Rules

(for short "the rules") notwithstanding the fact that the deceased wife in her nomination did not include the husband. The forums below have taken the view agreeing with the authorities that since the nomination was not in favour of the husband and the husband was staying separate from the wife, the husband would not be entitled to family pension in question. This view cannot be sustained in view of the provisions contained in Rule 54 of the rules. It is too well settled that where rights of the parties are governed by statutory provisions, the individual nomination contrary to the statute will not operate."

Similar view was taken in the case of SMT. VIOLET ISSAC (supra) and subsequently also in various other cases, as indicated above. The Court had also referred to the decision in the case of JODH SINGH (supra). Thus, Court has no hesitation in holding that even if the relationship between spouses is not cordial and there is no nomination in terms of the rules and instructions for grant of service related benefit to the wife or husband, even then the spouse is entitled to benefit of family pension.

13. Considering the rule position, as noted above, I am left with no other option but to allow this O.A. Accordingly, respondents are directed to grant family pension to the applicant from the date when she became entitled to the same. Let the above exercise be carried out within a period of 30 days from the date of receipt of a certified copy of this order. Pending M.A. also stands disposed of. No costs.

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

Date:  
Place: Chandigarh.

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