

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/859/2018

Friday, this the 22nd day of November, 2019.

CORAM:

**HON'BLE Mr. E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER**

K.C. Philip,
Parayail, CRA 265 A,
Choozhampala, Mukkola (P.O),
Trivandrum. - Applicant

[By Advocate Mr. V.A. Vinod]

Versus

1. The Union of India
Represented by the Secretary to the Government of India,
Department of Space, New Delhi – 110 001.

2. The Director,
Liquid Propulsion Systems Centre,
Valiamala (P.O),
Thiruvananthapuram – 695 547. - Respondents

[By Advocate : Mr. N. Anilkumar, Senior CGSC]

The application having been heard on 19.11.2019, the Tribunal on 22.11.2019 delivered the following:

O R D E R

Per: Ashish Kalia, Judicial Member

The applicant is the husband of late Smt Thresiamma Joseph who was working with ISRO at Trivandrum. The applicant's wife was appointed as OCB at ISRO at Trivandrum Unit on 21.12.1985. She met with an accident and succumbed to the injuries. Later on she died. Being the dependent (Husband) of the employee, the applicant was given family pension initially. He received the same till 05.07.1987, on which

date he got remarried to the sister of his late wife who was suffering from epilepsy. Thereafter, the son of the applicant and late Thresiamma Joseph, Mr. Jimmy Philip was granted family pension and applicant was pulling life with that income. The grant of pension was stopped by the respondents while son of the applicant attained the age of 25 years. Thereafter, the applicant's son got employed abroad and now he is not looking after the applicant also. Applicant has made representation to the 2nd respondent seeking family pension considering his physical condition and financial conditions, who was suffering from Cancer. The representation was rejected on 25.01.2016 on the ground that he is remarried and the applicant's son has attained the age of 25.

2. Notices were issued and Mr. N. Anilkumar, SCGSC put appearance on behalf of the respondents and filed a detailed reply statement.

3. Learned counsel for the respondents submitted that under Rules, '*the family pension will be payable till your death or remarriage, whichever event occurs earlier. In the event of your death or remarriage, the family pension shall be granted to the child or children if any, through the guardian*'. It is further submitted that in 1987, applicant intimated his remarriage to the concerned authorities and further requested that the family pension may be sanctioned in favour of his son, Mr. Jimmy Philip. The same was granted. Thereafter, in 2015, he has made another representation for restoration of family pension and for sanctioning medical benefits to him, considering his physical

ailments and financial condition.

4. The representation was considered by the Department and thereupon decision was informed to the applicant vide order dated 25.01.2016. He made another representation but the same was also rejected. They have cited Rule 54 6(i), (ii), and (iii) of CCS Pension Rules, 1972 “*Family Pension is payable to a widow or widower upto the date of death or remarriage, whichever is earlier and the same is payable to son/daughter upto the age of his/her marriage/remarriage or till the date he/she starts earning or till the age of 25 years whichever is earlier*”.

5. They have also submitted a copy of the rules along with the reply. Lastly, learned counsel for the respondents submitted that there is no provision to grant family pension to the person who has been remarried and prayed for dismissal of the O.A.

6. Heard the learned counsel for the parties at length and perused the records.

7. After considering the rival contentions, we are of the view that applicant has no legal right to get restored his family pension under the CCS Pension Rules, 1972 as once he has been remarried to the sister of his deceased wife. It is clear, before coming to Court of Law, one has to establish his legal right in order to get relief. Mere depiction of mitigating circumstance is of no help. There is no rule, citation has been pointed out by the applicant in the present O.A.

8. Under the facts and circumstances of the case and the legal position so appreciated by this Tribunal, the present Original Application is devoid of merit and is liable to be rejected. Thus, same is rejected. There shall be no order as to costs.

(Dated, 22nd November, 2019.)

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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Applicant's Annexures

Annexure A1 - A true copy of the representation dated 21.12.2015 filed by the applicant.

Annexure A2 - A true copy of the letter dated 25.01.2016 issued by the 2nd respondent.

Annexure A3 - True copy of the representation dated 26.06.2017 filed by the applicant.

Annexure A4 - True copy of the communication dated 12.09.2017.

Annexures of Respondents

Annexure R-1 - True copy of letter No. LPSC/ESTT/25/2/86 dated 04.03.1986

Annexure R-2 - True copy of the declaration submitted by the applicant.

Annexure R-3 - True copy of Pension Payment Order No. LPSU/EST/25/2/86/902 dated 25.04.1986.

Annexure R-4 - True copy of the letter dated 27.07.1987 submitted by the applicant.

Annexure R-5 - True copy of letter No. 5/7(3)/2016-Estt. dated 25.01.2016.

Annexure R-6 - True copy of letter No. 5/7(3)/2016-Estt. dated 12.09.2017

Annexure R-7 - True copy of the relevant portion of the CCS Pension Rules.
