

(2024) 02 CAT CK 0017

Central Administrative Tribunal - Jabalpur Bench, Jabalpur

Case No: Original Application No. 200, 00115 Of 2020

Prem Bati Bai @ Prem Bai D/o Late
Shri Garib Das Choudhary

APPELLANT

Vs

Union Of India, Through It
Secretary Ministry Of Defense,
Defense House, South Block New
Delhi PIN Code 110001 & Ors.

RESPONDENT

Date of Decision: Feb. 9, 2024

Acts Referred:

- Central Civil Services (Pension) Rules, 1972 - Rule 54(6)(iii), 54(8)

Hon'ble Judges: Akhil Kumar Srivastava, Member, J; Kumar Rajesh Chandra, Member A

Bench: Division Bench

Advocate: Rajesh Soni, D.S. Baghel

Final Decision: Dismissed

Judgement

Akhil Kumar Srivastava, Member J

1. By the way of this Original Application applicant is seeking family pension along with arrears and interest w.e.f.11.08.2018 and also to quash order dated 10.08.2018 whereby her claim for family pension was rejected by the respondents.

2. Precisely the case of the applicant is that father of the applicant was an employee of respondents got retired on attaining the age of superannuation w.e.f.31.01.1976 (Annexure A/2) and died on 23.06.1983 (Annexure A/3). Applicant's husband shri Suresh Prasad Chamar died on 04.10.2016 and she was residing with her mother Smt. Puniya Bai who died on 11.03.2018 (Annexure A/5). After the death of her mother, she submitted an application on 12.04.2018 (Annexure A/6) to respondents for grant of

family pension. Respondents asked applicant to submit all relevant documents vide letter dated 11.06.2018 (Annexure A/7) which she submitted vide application dated 25.07.2019 (Annexure A/8). Respondents vide order dated 10.08.2018 rejected the claim of the applicant on the ground that her name is not mentioned in the service record of applicant's father. Hence this Original Application .

3. Respondents in their reply have submitted that the father of the applicant at the time of retirement had nominated Smt. Puniya Bai as his wife and Shri Prem Lal as son in nomination forms and DCRG form filled by him at the time of retirement. Accordingly pension was sanctioned in favour of Late Garib Das and family pension in favour of Smt. Puniya Bai. Statement of family as on 06.01.1976 and DCRG form dated 07.01.1976 are enclosed as Annexure R/1 and R/2. But name of applicant is not mentioned. In Aadhaar Card the date of birth of applicant is shown as 01.01.1958 and at the time of retirement she was aged about 18 years. As per procedure name of daughter or son below 25 years of age should be nominated in family particulars but there is no specific reason that why name of the applicant was not mentioned in particulars of the family. Applicant has filed a Civil Suit before the Court of Civil Judge Class I Jabalpur for declaration of widow daughter of late Garib Das. As per record available with the respondents Late Garib Das never mentioned the name of the applicant in any of the service documents submitted during his lifetime or at the time of retirement. Hence applicant is not entitled for family pension.

4. Applicant in her rejoinder submitted that learned Civil Court in Case No.164A/2020 has declared applicant as widowed daughter of Late Shri Garib Das and Late Smt. Puniya Bai vide order dated 24.11.2022. Therefore she is entitled for family pension.

5. In the additional reply filed by the respondents it has been submitted that mere confirmation of the fact that the applicant is daughter of ex employee does not make her eligible for family pension. The rule position regarding eligibility of widowed daughters for grant of family pension vide OM dated 16.09.2015 has to be taken into consideration.

6. Heard the learned counsel for the parties and perused the pleadings and documents annexed therewith.

7. It is evident from the record that at the time of retirement of Late Garib Das applicant's name was not mentioned only his wife and son name was mentioned. Though the Civil Judge has declared applicant as widowed daughter of Late Garib Das and Smt. Puniya Bai but on the question of grant of family pension has come to any conclusion that grant of family pension is according to the family pension rules, circulars issued from time to time by the Government of India. Therefore grant of family pension is solely dependent on the department.

8. The Government of India Ministry of Personnel, P.G. & Pensions Department of Pension & Pensioners' Welfare, New Delhi, vide O.M.No.1/ 13/09-P&PW (E) dated 11th September, 2013 issued clarification on the subject of 'Eligibility of widowed/divorced daughters for grant of family pension'. The contents of the said OM read thus:

"Provision for grant of family pension to a widowed/divorced daughter beyond the age of 25 years has been made vide OM dated 30.08.2004. This provision has been included in clause (iii) of sub-rule 54 (6) of the CCS (Pension), Rules, 1972. For settlement of old cases, it was clarified, vide OM dated 28.04.2011, that the family pension may be granted to eligible widowed/divorced daughters with effect from 30.08.2004, in case the death of the Govt. Servant/ pensioner occurred before this date.

(2) This Department has been receiving communications from various Ministries/ Departments seeking clarification regarding eligibility of a daughter who became widowed/divorced after the death of the employee/pensioner.

(3) As indicated in Rule 54(8) of the CCS (Pension) Rules, 1972, the turn of unmarried children below 25 years of age comes after the death or remarriage of their mother/father, i.e., the pensioner and his/her spouse. Thereafter, the family pension is payable to the disabled children for life and then to the unmarried/widowed/divorced daughters above the age of 25 years.

(4) It is clarified that the family pension is payable to the children as they are considered to be dependent on the Government servant/pensioner or his/her spouse. A child who is not earning equal to or more than the sum of minimum family pension and dearness relief thereon is considered to be dependent on his/her parents. Therefore, only those children who are dependent and meet other conditions of eligibility for family pension at the time of death of the Government servant or his/her spouse, whichever is later, are eligible for family pension. If two or more children are eligible for family pension at that time, family pension will be payable to each child on his/her turn provided he/she is still eligible for family pension when the turn comes. Similarly, **family pension to a widowed/divorced daughter is payable provided she fulfils all eligibility conditions at the time of death/ineligibility of her parents and on the date her turn to receive family pension comes.**

(5) As regards opening of old cases, a daughter if eligible, as explained in the preceding paragraph, may be granted family pension with effect from 30th August, 2004. The position is illustrated through an example. Shri A, a pensioner, died in 1986. He was survived by his wife, Smt. B, a son Shri C and a daughter, Kumari D, the daughter being the younger. Kumari D married in 1990 and got widowed in 1996. Smt. B died in 2001. Thereafter, Shri C was getting family pension, being disabled, and died in 2003. Thereafter, the family pension was stopped as Kumari D was not eligible for it at that time. She applied for family pension on the basis of O.M., dated 30th August, 2004.

Since she was a widow and had no independent source of income at the time of death of her mother and on the date her turn came, she may be granted family pension. The family pension will continue only till she remarries or starts earning her livelihood equal to or more than the sum of minimum family pension and dearness relief thereon.

(6) This is only a clarification and the entitlement of widowed/ divorced daughters would continue to be determined in terms of O.M., dated 25/30th August, 2004, read with O.M., dated 28.4.2011”.

9. The father and mother of the applicant died on 23.06.1983 and 11.03.2018 respectively. The applicant got married with Late Suresh Prasad Chamar who died on 04.10.2016. As per Aadhaar Card produced by the applicant it seems that applicant was staying at her husband’s address. The aforementioned provisions clearly stipulates that family pension to a divorced daughter is payable provided she fulfills all eligibility conditions at the time of death/ineligibility of her parents. Thus, at the time of death of her father the applicant was not fulfilling the eligibility criteria for grant of family pension as she was residing at her husband’s address and her mother has also not given any declaration that applicant was residing with her nor her name is reflecting in ration card. Thus, it seems that she is not dependent on pensioner. Therefore, in terms of the aforesaid provisions she is not entitled for grant of family pension.

10. In this view of the matter, we do not find any merit in the instant Original Application and, therefore, the relief sought for by the applicant in this Original Application cannot be granted.

11. In the result, Original Application is dismissed, however, without any order as to costs.