

Dipika Rani Vs Union Of India & Others

Court: Central Administrative Tribunal - Allahabad Bench, Allahabad

Date of Decision: Jan. 9, 2025

Acts Referred: Administrative Tribunals Act, 1985 " Section 19
Hindu Adoptions And Maintenance Act, 1956 " Section 11(vi)

Hon'ble Judges: Mohan Pyare, Member (A)

Bench: Single Bench

Advocate: A.D. Singh, Krishna Kumar Ojha

Final Decision: Allowed

Judgement

Mohan Pyare, Member (A)

1. Present Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:

“(i) Quash the impugned order dated 25.08.2022 passed by respondent no.3 whereby illegally rejected the claim of family pension of the

applicant (Annexure No.A-1) to this O.A. in Compilation No.-I.

(ii) Direct the respondents to pay the family pension to the applicant and accordingly make the payment of arrears of family pension along

with 18% interest per annum from the date of death of her father to the date of actual payment is being made to the applicant.

(iii) To grant such any other relief, which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case in

favour of the applicant.

(iv) Award the cost of the application in favour of the applicant.

2. Brief facts of the case are that the applicant is the adopted daughter of the deceased employee Pancham and his only legal heir. The father of the

applicant entered into service on 16.06.1972 under the respondents. The deceased employee was issueless and during his service, he adopted the

applicant by way of registered adoption dated 28.10.2003 in the office of Sub Registrar, Kasganj. At the time of adoption, the applicant was 10 years

old. The deceased employee had also requested the respondent authority to enter the name of the applicant in the service record but it was not done.

In his lifetime and before his retirement, the father of the applicant again executed an adoption deed dated 05.08.2006 in the office of Sub Registrar,

Kasganj as per objection raised by the respondents vide their letters dated 22.07.2004 and 21.07.2006 and again requested the authorities to enter her

name in his service record but it had not been carried out. The deceased father of the applicant also submitted an affidavit dated 03.09.2006 before

the Senior Section Engineer, N.E. Railway, Kathgodam through proper channel that the adoption of his daughter Km. Dipika Rani is done and the

name of Km. Dipika Rani and Dipika Rani is the same for entering into his service record as daughter for all purposes. The father of the applicant

retired on 30.09.2006 and was receiving pension. He died on 20.12.2011 leaving behind the applicant as his sole heir. The applicant claimed family

pension after the death of her father vide an application dated 28.10.2017 which was rejected by respondent no.3 vide the impugned order dated

25.08.2022.

3. I have heard learned counsel for the parties.

4. Submission of learned counsel for the applicant is that the applicant is the adopted daughter and the sole heir of the deceased employee who was

unmarried and thus, she is entitled for grant of family pension. He states that there was only objection by the respondent to the adoption deed dated

28.10.2003 but there is no objection to the registered adoption deed dated 05.08.2006. The applicant has been issued the family member certificate

dated 13.12.2019 by the District Magistrate Kasganj whereby it is declared that the father of the applicant died on 20.12.2011 and the applicant is the

only legal heir of her father for the purpose of pension, fund etc which was also submitted by the applicant before the authority concerned as well as

an affidavit dated 22.09.2020 before the competent authority declaring that she is still unmarried. The applicant also submitted several representations,

the last being her representation dated 17.08.2023 but the respondents have not taken any action and only on technical basis they have not entered the

applicant's name in the service record of her deceased father.

5. Submission of learned counsel for the respondents is that the adoption deed dated 28.10.2003 was found invalid and the information was

communicated to the deceased employee vide letter dated 22.07.2004 that the aforesaid adoption deed was not in accordance with the provision

contained under section 11(vi) of the Hindu Adoptions and Maintenance Act, 1956, as in it neither the age of adopted son/daughter was mentioned nor

the date, time and place of adoption was mentioned. The adoption deed mentioned by the applicant which is dated 05.08.2006 has not been submitted

in the department. It is stated that Late Pancham died on 20.12.2011 and the applicant was major at the time of the death of the deceased employee

but she claimed for family pension in the year 2017 only after a delay of more than 6 years without explaining sufficient cause of such inordinate

delay.

6. In his rejoinder, learned counsel for the applicant argues that the adoption is valid and intact. The respondents cannot question it and sit over the

adoption which is legally done by the parties in the legal forum.

7. I have considered the rival contentions of learned counsel for the parties and perused the entire documents on record.

8. It is submitted that the applicant's father had made applications during his lifetime to get the applicant entered in his service records as his

daughter but it was rejected on the ground that the adoption deed dated 28.10.2003 is not valid. He had also submitted an affidavit to this effect but

still the name of the applicant was not entered into the service records of the deceased employee. It is stated by learned counsel for the respondents

that the subsequent adoption deed dated 05.08.2006 has not been received in the office and also that the claim for family pension has been made at a

belated stage.

9. If the applicant is the legally adopted daughter of the deceased employee and his dependent legal heir, the respondents cannot deny her the right of

family pension merely on the ground that her name has not been entered in the service book of the deceased employee or that her claim is belated as

it is a month to month loss to the applicant and a continuing cause. It is not denied that the deceased employee who had adopted the applicant had

made several applications for her inclusion in his service records but the respondents denied it on technical grounds. The respondents ought to have

made verification of the legality of the claim of the applicant before outrightly denying the same on this ground alone that she has not been included in

the service records of the deceased employee. The adoption deeds have been issued by the office of Sub Registrar Kasganj and the late Pancham

(the deceased employee) had also submitted an affidavit that Kumari Dipika Rani and Dipika Rani is the same person who is his adopted daughter.

The applicant has also submitted a family member certificate dated 13.12.2019 issued by the District Magistrate, Kasganj and also an affidavit that

she is unmarried and dependent on the deceased employee. Thus, the respondents should not deny family pension to the applicant if she is the only

dependent legal heir of the deceased employee and should consider and make proper verification of legally binding documents submitted by the

applicant.

10. In light of the aforesaid facts and discussions, the O.A. is allowed, the impugned order dated 25.08.2022 is quashed and the respondents are

directed to consider the claim of the applicant for grant of family pension taking into account and verifying the adoption deed dated 05.08.2006 and

other relevant documents submitted by her as proof of her claim of being the legally adopted daughter of Late Pancham (the deceased employee).

The said exercise should be completed within a period of three months from the date of this order and a speaking order based on relevant rules/

regulations should be passed and the same should be communicated to the applicant immediately after passing such order.

11. All associated M.A.s also stand disposed of. No costs.