

Madhu D/o Chhote Lal & Ors. Vs Union Of India Though Secretary, Ministry Of Agriculture Government Of India, New Delhi. & Ors.

Court: Central Administrative Tribunal - Allahabad Bench, Allahabad

Date of Decision: Jan. 15, 2025

Acts Referred: Civil Services (Pension) Rules, 1972 " Rule 30(i)(a), 50, 51, 52, 53
General Provident Fund (Central Services Rules, 1960) " Rule 5

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

Bench: Single Bench

Advocate: Pawan Kumar Rao, Sanjay Kumar Rai, N. P. Singh

Final Decision: Dismissed

Judgement

Mohan Pyare, Member (A)

1. Shri Pawan Kumar Rao, learned counsel for the applicants and Shri N. P. Singh, learned counsel for the respondents, are present and heard.

2. The instant original application has been filed seeking following relief:

1. To issue a suitable order or direction in the for quashing the impugned memorandum/order dated 29.05.2023 passed by Director,

ICAR- Central Agroforestry Research Institute, Jhansi, Near Pahuj Dam, Gawalior Road, Jhansi, U.P./ Respondent no.3 (Annexure No. A-

11 to compilation no. I).

b) To issue a suitable order or direction to the Respondents Authorities to pay the gratuity/GPF amount in favour of the applicants who are

the nominees of Late Dr. Sudhir Kumar, Principal Scientist- ICAR- Central Agroforestry Research Institute, Jhansi according to their share.

c) To issue a suitable order or direction to the respondent authorities to handover all the documents and articles in favour of the

nominees/applicants, which were belongs to Late Dr. Sudhir Kumar, Principal Scientist, which is available in his office and in possession of

respondent authorities.

d) Issue such other and further order or direction which this Hon'ble Court may deem, fit and proper under the facts and circumstances of

the case.

e) Award cost of the original application in favour of the applicant.

3. The brief facts of the case are that the elder brother of the applicant namely Dr. Sudhir Kumar was a Central government employee and was

posted as Principal Scientist in ICAR-Central Agroforestry Research Institute, Jhansi. He died on 07.05.2021 due to corona. After death of the Dr.

Sudhir Kumar, applicant approached the respondent no. 3 for the payment of pension and other dues. Vide letter dated 11.04.2022, respondents issued

a letter to the applicants and directed them to provide requisite documents. In pursuance of this, the applicant submitted all requisite documents.

Thereafter on 09.06.2022, respondents issued a letter to the applicants in which it was stated that Late Dr. Sudhir Kumar has made a total four

members as nominees, in which applicants' names are also mentioned, hence they are entitled for 25-25% amount and further directed to the

nominees members to provide the requisite documents. In response, applicants have submitted all requisite documents and formalities but no heed was

paid to the respondents. Being aggrieved with the conduct of the respondents, the applicants filed O.A. no. 312/2023 before this Tribunal. The

aforesaid O.A. was decided on 25.04.2023 by directing the respondents to decide the representation of the applicant by passing a reasoned and

speaking order. In compliance of aforesaid order, respondent no. 3 has passed an order dated 29.05.2023 by which disposed off both applicants'

representation without paying the death gratuity and GPF and also without providing the relevant documents of Dr. Sudhir Kumar. Hence, the Instant

Original Application.

4. Per contra, respondents have filed their Counter Affidavit refuting the facts disclosed in the OA and alleged that the instant Original Application is

liable to be dismissed on the ground that the applicants have failed to implead Secretary ICAR as necessary party. As per ICAR bye-laws Secretary

ICAR is the necessary party and ICAR may be sued with the name of Secretary that has not been done. It is also mentioned that the case of

applicants are not in respect of compassionate appointment or the dues in respect of deceased employees as per rules. That as per clause hierarchy of

the rules the applicants do not come under definition of family because as per the Rule 50, 51, 52 and 53 CCS Pension Rule, clause (i) the wife of

deceased employee and unmarried daughter are alive. Hence as per the CCS Pension Rules all the amounts should go in their favour. It is also stated

that regarding handing over of the articles of the Late Dr. Sudhir Kumar to the applicants, a committee was constituted on 28.05.2021 and personal

written "Vasiyatnaama" in sealed envelope was recovered in the Folder-I of personal belongings of Dr. Sudhir Kumar. Thereafter Smt. Bindu

Lata W/o Late Dr. Sudhir Kumar, Shri Sushil Kumar (brother), Smt. Madhu (sister) and Smt. Rekha (sister) were called to be present on 04.09.2021

in the committee room of the institute to open the sealed envelope. But Smt. Bindu Lata (wife) and her daughter Km. Prateeksha did not turn up.

Those members who were present, did not submit any affidavit towards consent in favour of the one of the family member so that documents may be

handed over to the nominated member.

5. A rejoinder affidavit has also been filed by the applicant controverting the facts mentioned in the Counter Affidavit mentioning therein that

respondents are trying to mislead this Hon'ble court on the ground of technicality and the proper reply of the preliminary objection will be given at

the time of argument. It is also mentioned that late Dr. Sudhir Kumar had made a nominee to the applicant and also prior to his death, he has executed

a will deed to resolve the dispute between the family members but the respondents are not willing to hand over the articles of the deceased employee

as well as retirement dues.

6. I have heard the learned counsel for the parties.

7. Submission of learned counsel for the applicant is that the applicants are nominees in the service record of the deceased employee and also

according to the Rule 30(i)(a) of the said rules, hence, the applicants are fully entitled to receive the amount standing being nominees. But respondents

have not paid any heed to make payment in favour of the nominees applicants. He further argued that in compliance of the direction given in the O.A.

No. 312/2023 (Madhu and another vs Union of India and ors), respondents have disposed off the representations vide impugned order dated

29.05.2023 in a very casual manner, which is not speaking.

8. Learned counsel for the respondents argued that the respondents no. 1 & 2 have not passed any order and order impugned has been passed by

respondent no. 3 and against the order passed by respondent no. 3, there is provision of appeal before the appellate authority. I.e. Secretary, ICAR,

but the same remedy has not been exhausted by the applicant. He further submitted that there is no such post of Additional Secretary in the

respondent's department as the said post has been made as a necessary party. He also argued that applicants do not come under the reim of the

family members as per Rule 50, 51, 52 and 53 CCS Pension Rule and definition of family in respect of Government servant. Hence, prayer was made

to dismiss the OA.

9. I have considered the rival submissions and gone through the entire records.

10. Before discussing other issues raised on behalf of the parties, it will be useful to quote the relevant provisions of the judgment of O.A. No.

312/2023 which is as under:-

However, in view of the innocuous prayer made by the learned counsel for the applicants, the OA is disposed off with direction to the

respondent no. 3 / competent authority amongst the respondents to decide the representation of applicant no. 1 dated 02.11.2022 and

20.02.2023 (Annexure A-8 and A-9 of OA respectively), by a reasoned and speaking order within a period of three months from the date of

receipt of certified copy of this order. A copy of the reasoned and speaking order shall be communicated to the applicant no. 1 forthwith.

11. The main objections of learned counsel for the respondents that necessary person has not been arrayed as respondent, the provision of appeal has

not been exhausted and the applicants do not come under the definition of family of the deceased Dr. Sudhir Kumar, have been cursorily refuted by

the applicant in paragraph no. 3 of the rejoinder affidavit. Learned counsel for the applicant failed to submit any proper reply and has not shown any

authority in favour of their contention.

12. Learned counsel for the applicant mainly relied upon the Rule 5 of General Provident Fund (Central Services Rules 1960), which is quoted below:-

5. Nominations (1) A subscriber shall, at the time of joining the Fund, send to the Accounts Officer through the Head of Office a nomination

conferring on one or more persons the right to receive the amount that may stand to his credit in the Fund in the event of his death, before

that amount has become payable or having become payable has not been paid:

Provided that where a subscriber is a minor, he shall be required to make the nomination only on his attaining the age of majority:

Provided further that a subscriber who has a family at the time of making the nomination shall make such nomination only in favour of a

member or members of his family:

Provided further that the nomination made by the subscriber in respect of any other Provident Fund to which he was subscribing before

joining the Fund shall, if the amount to his credit in such other fund has been transferred to his credit in the Fund, be deemed to be a

nomination duly made under this rule until he makes a nomination in accordance with this rule.

Second proviso to that clearly states that subscriber shall nominate family members only. Learned counsel for the respondents has enclosed a copy of

the frequently asked question which clearly shows that married sisters do not come under the definition of family. As per the Rule 50, 51, 52 and 53

CCS Pension Rule and definition of family in respect of Government servant only unmarried sisters and widow sisters including step-sisters are

coming in the definition of family which find place at serial no. (ix).

13. The respondents have provided sufficient opportunity to the applicants to come with relevant papers in favour of them which has not been availed

by the applicant. Although they have attended a meeting convened by respondents but have not submitted even an affidavit in support of their claim.

14. Thus, on close scrutiny of entire facts and circumstances of the case and going through the entire records and comparing the same with the

provisions contained in Rule 50, 51, 52 and 53 CCS Pension Rule and definition of family in respect of Government servant, the applicants have not

been able to establish their claim and hence, the instant O.A. is liable to be dismissed and is accordingly Dismissed. All associated MAs stand

disposed off.

15. No costs.