

(2023) 03 CAT CK 0062

In the Central Administrative Tribunal

Case No : Original Application No. 896 Of 2022

Kamal Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 29-03-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Central Civil Services (Pension) Rules, 1972 — Rule 30(2), 54

Citation : (2023) 03 CAT CK 0062

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : Arvind Singh Yadav, Chakrapani Vatsyayan

Final Decision : Disposed Of

Judgement

Om Prakash-VII, Member (J)

1. The present O.A has been filed by the applicant under section 19 of Administrative Tribunals Act, 1985 with direction for quashing the order dated 8.6.2022 and for further direction to direct the opposite parties to grant/release arrears/ family pension w.e.f. 14.9.2018 and also pay current family pension to the applicant in accordance with circular dated 28.4.2011 of Govt. of India, Personnel, Public Grievance and pension Department (DOP&T).

2. The brief facts of the case are that father of the applicant Sri Banshi Lal was working as Senior Charge Man and has joined service on 12.12.1950, unfortunately died on 15.12.1986 and after the death of his father, mother of the applicant was getting family pension, who also died on 1.6.2015. Under CCS (Pension) Rules, 30(2) Proviso (iv), the applicant being disabled, entitled for family pension. Applicant submitted necessary documents required by the department. In pursuance of the letter dated 24.8.2021, applicant appeared before the Chief Medical Officer, Prayagraj for medical examination on 7.9.2021 and after examination, his case regarding disability was found genuine. The

applicant has filed Civil Misc. Writ Petition No. 1924 of 2022 in which Hon'ble High Court on 13.4.2022 directed the respondents to supply information about the requisite formalities within a week, thereafter, it was directed that the applicant will removed the said objection by filing material evidence as per direction given by the department and vide order dated 29.4.2022, Hon'ble High Court granted three weeks time for making compliance of the previous order dated 13.4.2022. Thereafter, PPO dated 23.5.2022 was issued by PCDA (P). Vide letter dated 14/16.5.2022 applicant was directed to give 4 points reply, which was also replied by the applicant on 25.6.2022, in which it is stated that applicant's sickness was started in the year 1990, his treatment was continued, as per direction of the department, applicant had produced himself before the Medical Board who given certificate that the applicant is 75% disabled person. Thereafter, vide letter dated 8.6.2022, Account Officer Personal directed the bank to hold the payment of family pension to the applicant.

3. Per contra, learned counsel for the respondents filed counter reply stating therein that late Banshi Lal, Ex-SCM was passed away on 15.12.1986 and after the demise of ex-employee, family pension was granted to his wife Smt. Puniya Devi, who also died on 1.6.2015. The applicant is the son of late Banshi Lal, who submitted an application on 1.5.2018, requested for grant of family pension as he is mentally disabled child of deceased employee. Respondents asked the applicant to submit the mental disability certificate and furnish the service details of his father vide letter dated 25th June 2018 and 30 July, 2018. The applicant instead of submitting the required details, submitted the pension certificate of late Puniya Devi vide letter dated 14th September, 2018. Department again asked the applicant vide letter dated 19.12.2018 to submit the required documents. Then applicant had submitted the disability certificate and family membership certificate vide letter dated 12.11.2018. On several correspondences, PCDA (P) Prayagraj vide PPO dated 23.5.2022 granted family pension to the applicant and directed the bank for payment of family pension to the applicant. Thereafter, vide letter dated 1.6.2022, PCDA (P), Prayagraj intimated that:-

"Please refer to GID NO. 40 under Rule 54 of CCS (P) Rule 1972 under which it is clearly stated that a disability certificate issued after the death of the employee/pensioner or his/her spouse for a disability which exist before their death may be accepted by the Appointing Authority if he is satisfied that (i) it renders him or her unable to earn a living, (ii) he/she was suffering from that disability on the crucial date, i.e. on the date of death of pensioner/employee or his spouse, whichever is later. Hence, eligibility of claimant is required to be examined in purview of above GID decision and furnish a certificate stating that whether the disability was existed at the time of death of pension/ employee or his spouse, whichever is later or not."

Accordingly, a letter dated 10th June 2022 was forwarded to the applicant with a request to provide the authorized documentary evidence stating that whether the

disability existed before the death of his father or his mother. The applicant vide letter dated 11th June 2022 and 25th June 2022 forwarded the prescription slip of hospital in which year of treatment is mentioned. All the correspondence between the applicant and the department since 1 June, 2022 were forwarded to PCDA (P) vide letter dated 28th July 2022. However, reply is still awaited.

4. Heard the learned counsel for the parties.

5. Submission of the learned counsel for the applicant is that all necessary documents have been submitted by the applicant to the department. In pursuance of the directions issued by the Hon'ble High Court in Writ Petition No.1924 of 2022, department after receiving all the documents from the applicant had issued PPO in favour of the applicant but vide order dated 8.6.2022 held the pension of the applicant, which is not justifiable. Vide letter dated 10th June 2022, department has directed the applicant to provide the authorized documentary evidence stating that whether the disability existed before the death of his father or his mother. The applicant vide letter dated 11th June 2022 and 25th June 2022 forwarded the prescription slip of hospital in which year of treatment is mentioned. All the correspondence between the applicant and the department since 1 June, 2022 were forwarded to PCDA (P) vide letter dated 28th July 2022 but till date, no action has been taken.

6. Learned counsel for respondents has submitted that Pension was sanctioned in favour of the applicant but PCDA (P) vide letter dated 1.6.2022 intimated that "Please refer to GID NO. 40 under Rule 54 of CCS (P) Rule 1972 under which it is clearly stated that a disability certificate issued after the death of the employee/pensioner or his/her spouse for a disability which exist before their death may be accepted by the Appointing Authority if he is satisfied that (i) it renders him or her unable to earn a living, (ii) he/she was suffering from that disability on the crucial date, i.e. on the date of death of pensioner/employee or his spouse, whichever is later. Hence, eligibility of claimant is required to be examined in purview of above GID decision and furnish a certificate stating that whether the disability was existed at the time of death of pension/ employee or his spouse, whichever is later or not." Accordingly, vide letter dated 10th June 2022, department has directed the applicant to provide the authorized documentary evidence stating that whether the disability existed before the death of his father or his mother. The applicant submitted reply on 11th June 2022 and 25th June 2022 along with the prescription slip of hospital in which year of treatment is mentioned. All the correspondence between the applicant and the department since 1 June, 2022 were forwarded to PCDA (P) vide letter dated 28th July 2022 and action is awaited.

7. I have considered the rival submissions of the learned counsel for the parties and have gone through the entire record.

8. From perusal of record, it is evident that earlier the family pension was granted to the applicant on the ground of disability but vide letter dated

1.6.2022, PCDA (P) respondents required some further information. Reply of the same has also been furnished by the applicant vide letter 11th June 2022 and 25th June 2022 along with the prescription slip of hospital in which year of treatment is also mentioned but the department has not taken any action till date. Hence, the court is of the view to dispose off the O.A. with direction to the respondents/ competent authority to take a decision in regard to granting family pension to the applicant by passing a detailed and speaking order, since all the necessary documents, as required have already been furnished by the applicant vide letter 11th June 2022 and 25th June 2022 along with the prescription slip of hospital in which year of treatment is also mentioned and communicate the decision so taken to the applicant forthwith.

9. With the above observations, O.A. is disposed off.

10. There shall be no order as to costs.