

(2022) 09 CAT CK 0019

In the Central Administrative Tribunal

Case No : Original Application No. 61, 1208 Of 2022

Rekha Devi

APPELLANT

Vs

UT Of Jammu And Kashmir & Others

RESPONDENT

Date of Decision : 12-09-2022

Acts Referred:

Citation : (2022) 09 CAT CK 0019

Hon'ble Judges : Suresh Kumar Batra, Member (J)

Bench : Single Bench

Advocate : K Nirmal Kotwal, Hunar Gupta, Raghu Mehta

Final Decision : Disposed Of

Judgement

Suresh Kumar Batra, Member (J)

1. Mr. K Nirmal Kotwal, Ld. counsel for the applicant, Mr. Hunar Gupta, Ld. D.A.G. for Respondent Nos.1 to 3 and Mr. Raghu Mehta, Ld. Sr. C.G.S.C. for Respondent No. 4 are present.

2. By way of instant O.A., the applicant is seeking a direction to respondents to settle pension of husband of the applicant as per the last pay drawn by him before of death i.e., on 06.07.2021. She further seeks a direction to respondents to pay arrears of pension after re-fixing the same as per the last pay drawn by the husband of the applicant in terms of Rule 242 of CSR and release the gratuity withheld by the respondent along with interest @ 18% per annum till the same is actually released and paid to the applicant.

3. Ld. Counsel for the applicant submitted that the husband of the applicant came to be engaged as daily wager in PHE Department and subsequently converted from PDL to Regular service as Helper with effect from 01.04.1996 in the pay scale of Rs 2550-55-2660-60-3200 vide Chief Engineer PHE Department Jammu order No. PHEJ/GE/61/E- of 2002 dated 02.07.2002. Thereafter, in pursuance to Govt. order No. 141-PW(Hyd) of 2006 dated 17.03.2006 the

Husband of the applicant re-designated from Helper to Assistant Motor Man in his own pay scale. Vide order No. PHEJ/GE/783-813 dated 22.04.2004 and SE PHE Mech Urban Circle Jammu's letter No. SEMU/6-23/7584-85 dated 30.11.2007 the husband of the applicant was placed in the pay scale of Rs 4000-6000 wef 01.04.2001. The pay was accordingly fixed. The husband of the applicant expired on 06.07.2021. At the time of superannuation of applicant he was in the pay scale of Rs. 25500-81100 (Level-4) and Respondent Nos. 1 to 3 recommended the case of applicant for settlement of pensionary & other retiral benefits according to last pay drawn by the husband of the applicant. However, Respondent No. 4 instead of settling the pension and other retiral benefits of the applicant according to last pay received by the applicant intends to settle the pension of the applicant and other retiral benefits on a lower pay scale without taking into consideration the last pay drawn by the applicant as required under Rule 242 of CSR. The case of the applicant is squarely covered by different orders passed by Hon'ble High Court.

4. Ld. Counsel for the applicant further submitted that the grievance of the applicant would be redressed, if the O.A. is disposed of with a direction to the respondents to treat a copy of this O.A. as representation of the applicant keeping in view the various orders passed by Hon'ble High Court as cited in this O.A. and take a decision on the same within a specified period.

5. Mr. Hunar Gupta, Ld. D.A.G. and Mr. Raghu Mehta, Ld. Sr. C.G.S.C. appeared on behalf of the respondents and conceded the aforesaid limited prayer of the applicant.

6. I have considered the submissions made by the Ld. Counsels for both the sides and perused the material on record. Without commenting on the merits of the case, the O.A. is disposed of at this stage, with direction to respondents to consider a copy of this O.A. as representation of the applicant and decide the same, as per rules, regulations and orders passed by Hon'ble High Court cited by the applicant in the O.A., by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order.

7. With the above direction, the O.A. stands disposed of. No costs.