



2024:DHC:4578



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 29.05.2024

+ W.P.(C) 11262/2023

GEETA JAIN

..... Petitioner

Through:

versus

PAY AND ACCOUNTS OFFICER, MINISTRY OF MSME
(FORMERLY MINISTRY OF SMALL-SCALE INDUSTRIES)
& ORS. Respondents

Through:

Advocates who appeared in this case:For the Petitioner : Mr.Prateek Kumar, Ms. Ankita, Mr. Y.
Pareek and Ms. Aarushi, AdvocatesFor the Respondent : Mr. Sandeep Singh, Mr. Devendra
Kumar, Advocates for R-1 and 2
Mr. Rajesh Sharma, Advocate for R-.3
(V.C)**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 32423/2024**

1. This is an application filed under Section 151 CPC filed on behalf of applicant/petitioner seeking impleadment of respondent no.4 i.e. Department of Development Commissioner, Small and Medium Enterprises (MSME).

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2. Notice is accepted by learned counsel appearing for the respective respondents.

3. For the reasons stated therein, the application is allowed. Amended memo of parties annexed with the present application is taken on record.

4. Application disposed of.

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5. With the consent of the parties, the present petition is taken up for hearing and disposal.

6. It is the case of the petitioner that the name of the petitioner was included by her mother namely Smt. Nirmal Jain in accordance with the Department of Pension & Pension of Welfare O.M. No. 1/19/03-P&PW (E) dated 06.09.2007.

7. By way of the application dated on 14.06.2010, the late mother of the petitioner is stated to have requested to the Senior Accounts Officer, PAO, MSMEDO to include the petitioner as a nominee in the Pension Payment Order vide the letter No. 38012 (29)/78-A (G) dated 08.09.2010.

8. It is stated that in the meanwhile, in the year 2011, the father of the petitioner who was the employee of MSME/respondent no.4 had unfortunately left for his heavenly abode. The family pension was thereafter being released in the name of the mother of the petitioner, namely, late Smt. Nirmal Jain.

9. It is stated by the petitioner that the mother of the petitioner had unfortunately expired on 18.02.2021. Consequent thereto, the petitioner by letter dated 10.03.2021 communicated to the Branch Manager,



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Central Bank of India, Green Park, New Delhi regarding the release of family pension in her name on the ground of being an unmarried and unemployed daughter of the Central Government Pensioner and enclosed the necessary documents.

10. It is stated that despite such request the family pension is not being released in favour of the petitioner. The petitioner by way of representation dated 15.12.2021, communicated to the Deputy Director (Admin), Office of the Development Commissioner, (Micro, Small and Medium Enterprises), New Delhi, regarding the release of family pension and the scope of expansion of family pension to unmarried and unemployed daughter of Central Govt. Servants / Pensioners, as per the aforesaid OM dated 06.09.2007.

11. It is stated that despite such representation and subsequent innumerable letters written to the respondents, there has been no response till date. It is stated that the petitioner has been waiting for some response from the department i.e. respondent nos.1, 2 and 4 respectively, but in vain. The petitioner was constrained to file the present petition on such inaction by the respondent nos. 1, 2 and 4.

12. Heard the counsel for the parties.

13. Learned counsel appearing for the petitioner had invited attention of this Court to Annexure P-3 which is the OM No. 1/9/03-P&W(E) of the DoPT dated 06.09.2007. It would be opposite to extract the notification as under:-

*“No. 1/19/03-P&PW (E)
Government of India
Ministry of Personnel, P.G. & Pension*



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Department of Pension & Pensioners' Welfare

*Lok Nayak Bhawan,
Khan Market, New Delhi
Dated: 6th September 2007*

OFFICE MEMORANDUM

Subject: Extension of scope of family Pension to unmarried daughters of Central Government servants/ pensioners.

The undersigned is directed to say that as per existing provisions under clauses (ii) and (ii) of sub-rule (6) of Rule 54 of the C.C. S. (Pension) Rules, 1972, read with of para 7.2 (b) of this Department's O.M. No. 45/86/97- P&PW (A)-Part I dated the 27th October 1997, son/daughter including widowed/ divorced daughter is eligible for grant of family pension till he/ she attains the age of 25 years or upto the date of his / her marriage/ remarriage, whichever is earlier subject to income criterion laid down in this Department's O.M. No. 45/51/97-P&PW(E) dated the 5th March 1998 which stipulates that a son/ daughter, including widowed/ divorced daughter, shall not have an income exceeding Rs. 2550/- per month from employment in Government, the private sector and self employment, etc., to be eligible for family pension. Orders were also issued vide this Department's O.M. No. 45/51/97-P&PW (E)(Vol II) dated 25th July 2001 regarding eligibility of disabled divorced/ widowed daughter for family pension for life subject to conditions mentioned therein.. Further, orders were issued for making the widowed/ divorced daughter eligible for family pension vide this Department's O.M. of even number dated 25th August, 2004.

2. The Staff Side of National Council JCM) had raised the issue of extension of scope of family pension to unmarried daughters of the Government servants/ Pensioners even after attaining the age of 25 years at par with the widowed/ divorced daughters, which has been agreed to in principle. It has, accordingly, been decided that the unmarried daughters beyond 25 years of age shall also be eligible for family pension at par with the widowed/ divorced daughters subject to other conditions being fulfilled. Grant of family pension to unmarried/ widowed/ divorced daughters shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above her has

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become ineligible for grant of family pension. It is further clarified that family pension to unmarried/ widowed/ divorced daughters above the age of 25 years shall be payable only after the other eligible children below the age of 25 years have ceased to be eligible to receive family pension and that there is no disabled child to receive the family pension.

3. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their U.O. No. 380/E.V/2006 dated 05.01.2007.

4. These orders, in so far as their applicability relates to the employees of the Indian Audit and Accounts Department, are being issued in consultation with the Comptroller and Auditor General of India, vide their U.O. No. 56 Audit (Rules)/12-2007 dated 22.05.2007.

(M. P. Singh)
Director

To

All Ministries/Departments of the Government of India.

Signed Copies

English Version Hindi Version”

14. The respondents have neither disposed of the representation dated 15.12.2021 nor have they filed any counter affidavit despite passage of an year. Moreover, a counter affidavit has been filed on behalf of respondent no.3 i.e. Central Bank of India, whereby the respondent no.3 has admitted that the petitioner is an unmarried daughter of the late Sh. O. P. Jain, former employee and that she is entitled to receive family pension from respondent nos. 1 and 2 following the demise of her mother Smt. Nirmal Jain on 18.02.2021. Moreover, the respondent no.3 has also averred in the said counter affidavit that they have no objection or opposition to the issuance of the new PPO in favour of the petitioner

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and undertakes to disburse the family pension upon receipt of the new PPO from respondent no.1 and 2.

15. It would be opposite to extract para 4 and 5 hereunder:-

“4. It is the case of petitioner that as the unmarried daughter of Late Shri. OP Jain, she is entitled to receive family pension from Respondent No 1 and 2 following the demise of her mother Late Smt. Nirmal Jain on 18/2/2021. It is stated that family pension to her mother was being disbursed from Central Bank of India Green Park Branch, New Delhi by virtue of PPO No 255917800113 issued by Pay and Account Office New Delhi in her favour. It is further submitted that validity of said PPO was extinguished upon the death of Smt. Nirmal Jain and respondent bank, acting as agent of Payment Pension authority for disbursing the pension, if not empowered to disburse the family pension to Petitioner until a New PPO in favour of Petitioner is issued to Bank.

5. It is submitted that Respondent No. 3 has no objection or opposition to issuance of the New PPO in favour of the Petitioner and undertakes to disburse the family pension upon receipt of New PPO from Respondent No. 1 & 2.”

16. After having perused the documents annexed thereto and hearing the learned counsel appearing for the parties, this Court is of the considered opinion that the respondent ought to have taken a suitable action on the representation so filed by the petitioner on 15.12.2021. It is disturbing to note that despite a passage of three years, the respondent nos.1 and 2 as also respondent no. 4 have not taken any action in respect of release of family pension to the petitioner. Irrespective of whether the petitioner is entitled to family pension or not, the representation ought not to have been kept pending for such a long time.



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17. It is thus, on the aforesaid ground, directed that the competent Authority of newly impleaded respondent no.4 i.e. Department Of Development Commissioner, Small And Medium Enterprises (MSME) A-Wing 7th Floor, Nirman Bhawan, Maulana Azad Road, New Delhi – 110108 shall consider the representation dated 15.12.2021 filed by the petitioner in accordance with law.

18. The petitioner would be entitled for a personal hearing to be afforded by the Competent Authority. The date, time and venue for such hearing shall be communicated by the Competent Authority well in advance. The petitioner will be entitled to also furnish additional documents in support and in respect of her request and the representation as deemed fit. The Competent Authority shall give due credence to the documents so filed as also the OM dated 06.09.2007 as extracted above and pass a reasoned order after hearing the petitioner. The said disposal of the representation shall be concluded within a period of six weeks. The order passed thereon shall be communicated within one week thereto. The petitioner would be at liberty to take necessary redressal, should the need arise against the order so passed by the Competent Authority.

19. It has been informed that the petitioner is suffering from various medical ailments and is ordinarily unable to go out of the house.

20. In that view of the matter, the petitioner shall be entitled to representation by an authorized person and shall also be entitled to join through video conferencing at the time of hearing before the Competent Authority. The Competent Authority shall ensure that the petitioner is afforded an opportunity through video conferencing mode in addition.



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21. In view of above, the writ petition is disposed of with no order as to costs.

22. The next date before the Registrar stands cancelled.

TUSHAR RAO GEDELA, J.

MAY 29, 2024
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