



2024:DHC:2818



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

% Judgment delivered on: 02.04.2024

+ W.P.(C) 12316/2021

JAIPALI

..... Petitioner

versus

GOVT OF NCT OF DELHI AND ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. M. K. Bhardwaj, Advocate

For the Respondent : Ms. Laavanya Kaushik, Advocate for
R-1 and 3
Mr. Abhay Kumar and Mr. Shagun
Ruhil, Advocates for R-2**CORAM:****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. The issue in respect of the present petition revolves around that the petitioner seeking family pension from September, 2012 onwards with all arrears and interest at GPF rates on the ground that her father was an employee with the erstwhile Delhi Vidyut Board (DVB) as Assistant Line Man (ALN) Zone No.413, Civil Lines. Sometime in the year 2004, the father of the petitioner unfortunately expired leaving behind his widow and the unmarried handicapped daughter who is the petitioner. The family pension consequent thereto was sanctioned to the



mother of the petitioner herein. The petitioner is stated to be a person with benchmark disability having 80% permanent physical impairment i.e. above the knee amputation on the right leg. The mother of the petitioner unfortunately expired on 21.03.2008 leaving behind the petitioner.

2. According to Mr. Bhardwaj as per Rule 54 of the CCS (Pension) Rules, 1972, the petitioner was entitled to family pension. In pursuance thereto, she had furnished the requisite application on 29.12.2008 which was sent to North Delhi Power Ltd., (erstwhile DVB)/through its Chief Executive Officer R-2.

3. The family pension was sanctioned in favour of the petitioner. Sometime in the year 2010, the respondents were informed that the petitioner was gainfully employed elsewhere which would make her ineligible for pension. Accordingly, the respondents had issued show cause notice dated 12.11.2012 to the petitioner as to why the family pension should not be withdrawn since the petitioner was stated to be drawing a salary of Rs.6656/- per month and also on the basis that the petitioner had concealed the fact that she was in gainful employment which would make her ineligible for any such family employment. The petitioner is stated to have replied to the said notice on 20.11.2012. However, the said pension was stopped in the year 2012. According to learned counsel for the petitioner, the said pension was stopped without any proper communication nor after the petitioner was given any opportunity to submit representation thereon. The petitioner is stated to have sent representation on 15.03.2013 and certain grounds showing her entitlement to the pension were also communicated. On the



representation of the petitioner submitted to the Minister of Power, Govt. of NCT of Delhi, the same was further communicated to the office of Respondent, for consideration on sympathetic ground. Since, there was no further action thereon, the present petition was filed. During the pendency of the present petition, Mr. Bhardwaj submits that an additional affidavit was filed by the petitioner on 08.11.2021 disclosing the conditions under which the petitioner was constrained to obtain gainful employment for survival and was only looking after small children of three-four years of age in pre nursery / play school of the North DMC. Mr. Bhardwaj, learned counsel appearing for the petitioner submits that petitioner has subsequently left the services. He submits that since now the petitioner is not earning, she would be entitled to revival of the said family pension.

4. Ms. Kaushik, learned counsel appearing for the respondent nos. 1 and 3 submits that admittedly the petitioner was in gainful employment and as such the order which was passed had taken into consideration her employment. She submits that even in the additional affidavit dated 08.11.2021, the petitioner does not admit or disclose that she is not employed anywhere at all. In such circumstances, learned counsel appearing for the respondents submits that the respondents will not be in a position to consider or at least reconsider her application.

5. In that view of matter, Mr. Bhardwaj, learned counsel appearing for the petitioner submits that the affidavit to that effect shall be submitted by the petitioner to the respondents with a prayer that the respondents reconsider their decision sympathetically in view of the condition of the petitioner.



6. Keeping in view the overall facts as also considering the age of the petitioner and that the petitioner is a lady suffering from 80% physical disability and may not be in a position to obtain gainful employment elsewhere, this Court is of the considered opinion that upon furnishing an undertaking in the nature of an affidavit disclosing that she is not gainfully employed anywhere, the respondents may reconsider the case of family pension treating the present writ petition as a representation and dispose of the said representation sympathetically keeping in view medical condition of the petitioner. The said representation would also be considered in terms of The Rights of Persons with Disabilities Act, 2016 as amended.

7. The said representation be disposed of with a speaking order within a period of four weeks. If required, an opportunity of personal hearing be accorded to the petitioner.

8. In view of the aforesaid directions, the writ petition is disposed of.

9. It goes without saying that the petitioner shall be bound by the statement given by Mr. Bhardwaj before this Court. It is also made clear that in case, even in future if the respondents find that the affidavit is false, they are at liberty to take appropriate action in that regard.

TUSHAR RAO GEDELA, J.

APRIL 02, 2024/ms