

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

17.

T. A. No. 16 of 2011
Suit No. 75 of 2010

Sh. Bhrigunath

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Petitioner in person

For respondents: Mr. Ajai Bhalla, Advocate for R-1 to R-3
None for R-4

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. Z.U. SHAH, MEMBER.

ORDER
31.01.2012

Heard the petitioner present in person and learned counsel for respondent nos. 1 to 3.

This suit was filed by the petitioner in the Court of District Judge, Delhi which was transferred to this Tribunal after its formation. Petitioner vide this suit has prayed that respondents being Union of India may be directed to pay jointly and/or severally Rs. 2,05,202/- as Group Insurance Scheme together with interest @ 15% per annum from the date of unauthorised/unwarranted payment of the same to the Respondent no. 4, Smt. Rachana Devi. It is also prayed that respondents may be directed to pay family pension and other death claim benefits of petitioner's son.

Petitioner is the father of one Rajinder Prasad who was recruited as an Airman in the Air Force on 09.10.1986. He expired on 27.06.1991 while he was on route to Delhi accompanied by his wife Smt. Rachana Devi and

parents. The marriage of Rajinder Prasad and Smt. Rachana Devi was solemnized on 17.06.1991 as per Hindu rites and customs. Prior to the death, Rajinder Prasad had nominated his father as his nominee to receive all the dues and money payable on account of service benefits. Petitioner claims that on account of death of his son, Rajinder Prasad, all the service claims should have been given to him. But it appears that after death of deceased Rajinder Prasad, all the service benefits including a sum of Rs.2,05,202/- towards Group Insurance Scheme was given to widow, Smt. Rachana Devi. Therefore, petitioner has filed the present suit claiming all the service benefits on account of death of his son including Rs. 2,05,2020 towards Group Insurance Scheme because Smt. Rachana Devi has got remarried and employed in the service.

Written statement/reply has been filed on behalf of Respondent nos. 1 to 3. Learned counsel for the respondent nos. 1 to 3 pointed out that after the death of Airman, the next of kin was the widow, Smt. Rachana Devi as per Para 6 and 8 of the Air Force Instructions 8/85. It is also pointed out that after the marriage of Airman, his parents are not eligible for any financial benefits since Smt. Rachana Devi was legally married wife of deceased Rajinder Prasad. Therefore, all the benefits have been released to her.

Nobody appeared on behalf of Respondent no. 4, Smt. Rachana Devi. However, written statement has already been filed on behalf of Smt. Rachana Devi before the Trial Court.

So far as the payment of Group Insurance Scheme is concerned, that has already been released to the widow, Smt. Rachana Devi. Petitioner has not been able to place before us any material pertaining to remarriage of Smt. Rachana Devi and her employment. Therefore, in the absence of cogent

evidence, we cannot draw inference that Smt. Rachana Devi has got remarried and getting salary more than the minimum family pension as a Teacher. So far as the present case is concerned, on account of lack of evidence, we cannot adjudicate, however it will be open for the petitioner to make representation before the Air Force authorities and Air Force authorities will look into the matter and find out whether Smt. Rachana Devi has got remarried or she is employed and drawing salary more than minimum family pension.

Hence, in these circumstances, we do not find any merit in this suit. The suit is accordingly dismissed. No order as to costs.

**A.K. MATHUR
(Chairperson)**

**Z.U. SHAH
(Member)**

**New Delhi
January 31, 2012**
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