

ARMED FORCES TRIBUNAL REGIONAL BENCH, KOCHI
R.A.NO.4 OF 2012 IN T.A.NO. 3 OF 2010
MONDAY, THE 18TH DAY OF MARCH, 2013/27TH PHALGUNA, 1934
CORAM:

HON'BLE MR. JUSTICE SHRIKANT TRIPATHI, MEMBER (J)
HON'BLE LT.GEN.THOMAS MATHEW, PVSM, AVSM, MEMBER (A)

APPLICANT:

K.ASOKAN, AGED 52 YEARS, S/O.KOCHIAPPAN,
BROTHER OF DECEASED K. VIJAYAN,
VADAKKETHARA, KODAMTHURUTHU, KUTHIYATHODE.P.O.,
CHERTHALA, ALAPPUZHA, KERALA.

BY ADV.SRI.VARUGHESE CHERIAN.

VERSUS

RESPONDENTS:

1. THE UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF HOME,
SECRETARIAT, NEW DELHI – 110 011.
2. I.N.BENEVOLENT ASSOCIATION,
NAVAL HEADQUARTERS, NEW DELHI,
REPRESENTED BY SECRETARY.
3. COMMODORE, DEPUTY DIRECTOR E.S.M. AFFAIRS,
B-28 SOUTH BLOCK, NAVAL HEADQUARTERS,
NEW DELHI.
4. COMMODORE, STAFF OFFICERS (GB),
BUREAU OF SAILORS. CHEETTAH CAMP,
MANKHURD, MUMBAI – 400 088.
5. THE SAINIK WELFARE OFFICER, ZILLA SAINIK WELFARE
OFFICE, ALAPPUZHA.

BY ADV.SRI.K.M.JAMALUDHEEN, SENIOR PANEL COUNSEL

O R D E R

Shrikant Tripathi, Member (J):

1. Heard Mr.Varughese Cherian for the applicant and Mr.K.M.Jamaludheen for the respondents and perused the record.

2. The applicant K.Asokan, the younger brother of deceased K.Vijayan, Ex Sailor No.103582 filed WP(C).No.15779 of 2006 before the Hon'ble High Court of Kerala at Ernakulam for a writ of mandamus compelling the respondents to pay the family pension which his mother was entitled from the date of the death of late K.Vijayan. He further prayed for another writ of mandamus directing the respondents to give all statutory benefits to the dependants of the deceased including employment assistance to him, being the brother of the deceased. On the establishment of the Tribunal, the writ petition was received here on transfer and has been registered as T.A.No.3 of 2010.

3. The relevant facts are that the applicant's brother late K.Vijayan died in an accident on 3rd of November 1978 in Mumbai. At that time he was a bachelor. His parents were however alive. But they were not sanctioned family pension or any other type of pensionary benefits on the ground that at that point of time no family pension or other pensionary benefits was payable to parents. However, vide the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension and Pensioners Welfare, Resolution No.45/86/97-P&PW(A) dated 30th September 1997 read with para 13.2 of the Ministry of Defence letter No.1(6)/98/D(Pension/Services) dated 3rd February 1998, the family pension was made admissible in favour of parents also with effect from 1st of January 1998, in absence of the widow who was earlier the only living person to receive family pension. Father of the late K.Vijayan died in the year 1998, whereas the mother died in the year 2005. An interim order dated 20th October 2010

was passed by this Bench directing the respondents to pay arrears relating to family pension with effect from 1st of January 1998 to the applicant. Accordingly the respondents have sanctioned the arrears of family pension from the aforesaid date in favour of the applicant and has filed the compliance report on 7th February 2012.

4. It is thus evident that the applicant has already been paid the entire amount of family pension which was payable to his mother till the date of her death. The family pension payable to the applicant's mother has been computed with effect from 1st of January 1998 in terms of the aforesaid Government letters. The learned counsel for the applicant very frankly conceded that the amount whatsoever has been sanctioned by the respondents has been received by the applicant.

5. To this extent there does not appear to be any dispute.

6. Learned counsel for the applicant, however, tried to contend that the applicant's mother as well as father were eligible for family pension with effect from 3rd of November, 1978. In this connection we mention that there was no rule prior to 1st of January 1998 to sanction family pension in favour of parents. At that point of time family pension was payable only to the widow, therefore, the contention of the applicant's counsel that the applicant's mother or father or both were entitled to family pension with effect from the date of death of the applicant's brother has no substance.

7. So far as the question of compassionate appointment is concerned, the proper course for the applicant is to move appropriate petition for the appointment. If any such petition is moved, the same may be given due consideration in accordance with law.

8. With the aforesaid observations, the Review

Application is disposed of.

9. There will be no order as to costs.

10. Issue copy of the order to both side.

SD/-

LT.GEN.THOMAS MATHEW
MEMBER (A)

sD/-

JUSTICE SHRIKANT TRIPATHI
MEMBER (J)

an (true copy)

Prl.Pvt.Secretary