



2025:DHC:6290



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

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Decided on: 31.07.2025+ **W.P.(C) 5455/2024**

KANTA DEVI

..... Petitioner

Through: Mr. Abhik Chimni, Mr. Gurupal Singh, Ms. Pranjal Abrol, Ms. Shreya Bajpai & Mr. Rishabh Gupta, Advocates.

versus

JAWAHARLAL NEHRU UNIVERSITY

..... Respondent

Through: Mr. Vasanth Rajasekaran, Senior Standing Counsel for JNU with Mr. Karan Prakash & Mr. Harshvardhan Korada, Advocates.

CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****J U D G M E N T**

1. By way of this writ petition under Article 226 of the Constitution, the petitioner assails communications dated 02.09.2019 and 30.05.2022, issued by respondent-Jawaharlal Nehru University ["JNU"], and seeks a direction upon JNU to release family pension in respect of the services of her late husband Mr. Dharambir Singh.

2. Mr. Dharambir Singh worked in JNU since before 1993, originally as casual labour. He was thereafter offered appointment as an Office Attendant on *ad-hoc* basis on 11.06.2001 and joined on 28.06.2001. He was then appointed to a regular post of Office Attendant on 19.10.2004, but passed away barely one month later, on 20.11.2004.



3. The petitioner has made several representations between the years 2018 and 2022, for release of family pension due on account of her late husband's pensionable service. Her request has been declined by the impugned communications dated 02.09.2019 and 30.05.2022. She has filed another representation on 24.06.2022, which has not elicited a response. She has, therefore, approached this Court, by way of the present writ petition.

4. In the impugned communication dated 02.09.2019, the ground for rejection is stated to be non-compliance with a condition in the offer of appointment, which required the employee to submit a certificate of medical fitness at the time of joining. In this connection, JNU relies upon an office memorandum dated 27.01.1979 issued by the Ministry of Finance. It is also stated that the petitioner was appointed as an Office Attendant on compassionate grounds, following the premature demise of her husband.

5. The content of this communication was reiterated in the second impugned communication dated 30.05.2022.

6. I have heard Mr. Abhik Chimni, learned counsel for the petitioner, and Mr. Karan Prakash, learned counsel for JNU.

7. The grant of family pension is covered by Rule 54 of CCS (Pension) Rules, 1972 ["the Rules"]. It was originally granted under the Family Pension Scheme for Central Government Employees, 1964. It is not in dispute that, under the Rules, family pension would ordinarily have been payable to the petitioner for the service of her late husband.

8. The contention of JNU is, however, that family pension is not payable in the present case, as the petitioner's husband failed to undergo



a medical examination at the time he joined the regular post of Office Attendant. The contention is based upon a reference to Chapter XIII of the Handbook on Personnel Officers, 1987 [“the Handbook”], which contains a reference to the aforesaid Office Memorandum of the Ministry of Finance, as follows:

*“(2) In view of the Government’s decision on family pension communicated in Ministry of Finance OM No. 1(10)-E V(B)/78, dated the 27th January, 1979 (family pension entitlement without minimum service limit), it has been decided that in no case should a person be allowed to join Government service **in a pensionable establishment without having been medically examined and found fit.**”¹*

9. The requirement of a medical examination was also reflected in the offer letter dated 19.10.2004 issued to Mr. Dharamvir Singh, in connection with his appointment to the regular post of Office Attendant. The terms and conditions of the appointment enumerated therein included the following: -

“15. You are required to submit the certificate of Medical Fitness from the medical authority prescribed by the University at the time of joining the University.”

10. It is the contention of Mr. Prakash that the medical examination had not been conducted before the untimely demise of the employee, with the result that the petitioner is not entitled to family pension.

11. I have some reservation as to whether such a drastic and lifelong consequence can, in such circumstances, befall the family of a deceased employee, who otherwise held a pensionable post. Both the office memorandum and the offer of appointment required the employer to ensure that the medical examination had been carried out, prior to or at



the time of joining. Mr. Prakash submits that in the normal course, and in accordance with later guidelines, a period of two months is provided for submission of medical certificate after the employee joins. If that be so, and the employee unfortunately passes away during this period, I am *prima facie* of the view that it is the employer, who must bear the consequences. The situation might be different, if the employee failed to undergo the medical examination within the period stipulated by the establishment, but the family ought not to be deprived of the fruits of the employee's service, in circumstances which were permitted by the employer.

12. However, in the facts of the present case, this contention does not require final adjudication, as the petitioner's case does not rest on this ground alone. Mr. Chinni referred me to another provision in the Handbook which, according to him, exempted Mr. Dharambir Singh from the requirement of a medical examination at the time of his regular appointment. Clause 9 of Chapter XIII of the Handbook reads as follows:-

“(9) The following further decisions of general nature have been reached in consultation with the Ministry of Health and the Ministry of Home Affairs (Now Department of Personnel & Trg):

xxxx xxxx xxxx xxxx

*(iv) In case where the rules for recruitment to new appointment prescribe a fresh medical examination in respect of all candidates, all directly recruited/selected candidates, irrespective of whether they are already in permanent or quasi-permanent Government service in the same or in other Department or are fresh appointees, should undergo a medical examination by the prescribed standard and by the prescribed medical authority, **provided that a fresh medical examination will not be necessary in the case of:***

¹ Emphasis supplied.



(a) a person who is already in employ of the Government and has already undergone medical examination by a medical authority which are recognised by the appointing authority as equivalent to those prescribed for the new appointment for which he is recruited or selected and

(b) a person who is already in permanent or quasi-permanent employ in the same line, and being eligible for promotion to the new appointment against a promotion quota of vacancies, is actually so promoted.

[M/o Finance OM No. 55 (ii) -EV/59, dated 12-2-60]

NOTE:-A person who has already been medically examined by the prescribed medical standards and the appropriate medical authority, should not be subjected to fresh medical examination at the time of his appointment to the new post, irrespective of the fact whether that person was permanent, quasi-permanent or temporary in his previous appointment.²

13. Mr. Chimni submitted that the aforesaid provision exempts an employee, if he has undergone a medical examination in connection with a prior service, even if that was temporary in nature. It is his contention that Mr. Dharamvir Singh, at the time of his *ad-hoc* appointment in the year 2001 underwent a medical examination.

14. Mr. Chimni's contention is borne out by reference to the offer of *ad-hoc* appointment issued by JNU dated 11.06.2001, which required the addressee to produce a fitness certificate from a competent medical officer directed by JNU. JNU also issued a communication to its Chief Medical Officer on the same date, informing him that Mr. Dharamvir Singh had been selected for the *ad-hoc* post of Office Attendant, and required him to furnish a medical report in the prescribed form. The report was to be forwarded confidentially to JNU administration.

15. Although the report has not been placed on record, the fact that the

² Emphasis supplied.



petitioner's late husband had undergone a medical examination prior to joining *ad-hoc* service on 28.06.2001 is admitted by JNU in its counter affidavit, as follows:-

“4. It is submitted that the deceased husband, Sh. Dharambir Singh, of the Petitioner was appointed as Office Attendant on Adhoc Basis in the university vide Officer Order No 393/2001 dated 28.06.2001 w.e.f

12.06.2001 after submission of medical examination certificate by Dr. SB. Aggarwal, Medical Officer, Health Centre, JNU and further subsequent annual increments have been granted to Sh. Dharambir Singh from time to time during his Adhoc service. A copy of Officer Order No 393/2001 dated 28.06.2001 is attached herewith as ANNEXURE R - 3.”³

16. Having regard to this factual position, the petitioner's case is, in my view, covered by the office memorandums cited in Clause 9 of the Handbook. The office memorandums make it clear that a prior medical examination, even in connection with temporary service, obviates the need for a fresh medical examination when the employee joins a pensionable service. The petitioner's late husband had undergone a medical fitness test on an earlier occasion and denial of family pension to the petitioner on the ground cited is, therefore, untenable.

17. Consequently, the writ petition is allowed, and the communications of JNU dated 02.09.2019 and 30.05.2022 are set aside. JNU is directed henceforth to pay the petitioner monthly family pension as admissible, on account of the services of her late husband, and to release arrears thereof to her within a period of three months from today. However, in view of the fact that the petitioner's first representation was made only on 25.06.2018, and she approached the Court only in 2024, I do not consider



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it appropriate to award interest in this case.

18. There will be no order as to costs.

JULY 31, 2025

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PRATEEK JALAN, J

³ Emphasis supplied.