

**Central Administrative Tribunal
Madras Bench**

OA/310/02003/2014

Dated Monday the 29th day of February Two Thousand Sixteen

P R E S E N T
Hon'ble Mr.R.Ramanujam, Member(A)

Amsaveni
W/o late N.L.Krishnan,
Old No.65m, New No.20,
Basheer Mohammed Layout,
Gandhi Nagar, Krishnagiri,
Tamil Nadu. .. Applicant

By Advocate **M/s.R.Varalakshmi**

Vs.

1. Union of India, rep by
The Chief Postmaster,
Anna Road Head Post Office,
Mount Road, Chennai-02.
2. The Accounts Officer,
Postal Accounts Department(Pensions),
Chepauk, Chennai-05. .. Respondents

By Advocate **Mr.K.Rajendran**

ORDER
(Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

The case of the applicant is that her husband who was working as Office Superintendent in the respondents' department retired from service on superannuation on 31.7.1987 and died on 26.12.2007. After his death, the applicant who was the second wife of the deceased, made several representations to the respondents including the last one dated 21.8.2013 seeking family pension with arrears thereof. As these evoked no response, she filed OA 1136/2013 in this Tribunal which directed the respondents to consider and dispose of her representation. Thereafter, the 2nd respondent by order dated 01.10.2014 rejected the claim of the applicant on the ground that the deceased employee had furnished the name of his first wife in the details of family in Form-3. Aggrieved by such rejection, the applicant has filed this OA seeking to quash the order of the 2nd respondent dated 01.10.2014 and direct the respondents to grant family pension with arrears and interest of 12% forthwith.

2. The respondents contest the claim of the applicant stating that the applicant is not entitled to family pension in respect of the deceased Government servant because the cohabitation/so called marriage of the applicant with Shri N.L.Krishnan when his legally wedded wife Smt.Thulasi was neither dead nor divorced was not valid. There could not be a legally solemnized marriage when the deceased employee had a spouse living till 1993. As the retired official had a

spouse living at the time of his second so called marriage of the applicant after the commencement of Hindu Marriage Act, 1955, it would be a nullity and have no legal effect. Therefore, the applicant is not entitled to the family pension of the deceased official as a legally wedded wife, it is contended.

3. Heard the learned counsel for the applicant and the respondents and perused the material available on record.

4. Learned counsel for the applicant referred to Order/Judgment in similar cases in OA 21/2012 of the Armed Forces Tribunal (AFT) and SA(MD) No.1068/2009 of the Madurai Bench of the Hon'ble Madras High Court and argued that the applicant who is 73 years old and has one daughter and 2 sons from the deceased employee is entitled to family pension even if it is held that she was married to the deceased employee when the first marriage was still subsisting.

5. I have carefully studied the two citations presented by the learned counsel. The Judgment of the Madurai Bench of Hon'ble Madras High Court is on the second appeal filed against the decree passed by Subordinate Judge, Thoothukudi. It is clear that the issue was originally dealt with in the Principal District Munsif Court and not in a Tribunal adjudicating on service matters. In the OA before the AFT, the Tribunal did appraise evidence and come to a conclusion. However, the matter pertained to army rules and the welfare of the family of an Ex-serviceman. It must have been dealt with in terms of the relevant provisions of the AFT Act and Army rules. The instant case, however, is clearly a civil matter. The issue of the validity of the applicant's alleged second marriage with the deceased employee is

for a competent Civil Court of jurisdiction to hear and decree. The applicant could refer to the aforesaid order/judgment while pleading her case before such court. As far as the respondents are concerned, it would certainly facilitate an appropriate decision once such a decree from a competent Civil Court is produced regarding the factum and validity of the alleged marriage.

6. In view of the above, the applicant is directed to approach the competent Civil Court of jurisdiction for adjudicating the matter and for obtaining a valid decree based on which the respondents could consider the payment of family pension and grant the relief sought by the applicant. The applicant would be well advised to implead the respondents also in the Civil suit to enable them to submit any relevant facts available on their records. This would help expeditious disposal of her claim should she succeed in the suit.

7. With the above direction, the OA is disposed of. No order as to costs.