

(Reserved on 18.12.2020)

Pronounced on 05.02.2021

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD**

Present:

**Hon'ble Mr. Devendra Chaudhry, Member-A**

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**Original Application No. 330/00653/2018**

(U/S 19, Administrative Tribunal Act, 1985)

Smt. Neera Saxena widow of Late Ashok Kumar Saxena age about 54 years, Residence of A-1751, Awas Vikas, Hanspuram Galla Mandi, Kanpur Nagar, Kanpur.

.....Applicant.

By Advocate – S/Shri Rajesh Kumar/Pradeep Kumar Mishra.

**V E R S U S**

1. Union of India, through General Manager, North Central Railway, Subedarganj, Allahabad-211015.
2. General Manager, North Central Railway, Subedarganj, Allahabad-211015.
3. Divisional Railway Manager, North Central Railway, Nawab Yusuf Road, Allahabad-211001.
4. Senior Divisional Personnel Officer, North Central Railway, Nawab Yusuf Road, Allahabad-211001.
5. Station Director, North Central Railway, Kanpur Central Station, Kanpur.
6. Smt. Kiran Saxena, w/o Late Ashok Kr. Saxena R/o House No.18/27-A, Karam Chari Nagar, PAC Road, Kanpur Nagar.

.....Respondents.

**By Advocates:** Shri Amit Kumar Rai, learned counsel for the official respondents.

Shri M.K. Sharma, learned counsel for the respondent No.6.

**ORDER**

The present original application (OA) has been filed against the impugned order dated 10.10.2017 and 15.12.2017 concerning the grant of retiral benefits to legal heir of demised employee Shri Ashok Kumar Saxena between two contesting women, viz, the applicant and one Kiran Saxena, both claiming to be wives of the demised employee.

2. *Per* applicant, the brief facts of the case are that she is the legal widow of the demised employee of Late Shri Ashok Kumar Saxena as per Identity and Medical Card (Annexure-A3). That after the demise of her husband, another woman, allegedly named Kiran Saxena filed an application before the Railway authorities claiming herself to be the lawful widow and also filed an OA No.1195/2017 before this Tribunal. The Tribunal vide order dt. 04.10.2017 directed disposal of representation of the women Kiran Saxena whereupon R-3 (Respondent No.3) rejected the claim of Kiran Saxena vide order dt. 24.03.2018. That, therefore, now the applicant is the only claimant and inspite of the same, the Railway authorities are asking for Succession Certificate from a Civil Court vide the impugned orders which is against the law laid down by the Hon Apex Court in the matter of Violet Issaac vs Union of India, 1991 (1) SCC 725 and hence the rejection is not justiciable; hence the OA.

3. *Per contra*, the respondents have submitted through their counter affidavit that after the demise of the employee, two claims regarding retiral dues and one claim regarding compassionate appointment was moved by two women claiming to be wives of the demised employee. That in the present OA, Smt Neera Saxena one of the claimants is the applicant. That on a claim for compassionate appointment filed by son borne from Smt Neera Saxena, the application was got inquired into by the Chief Staff Welfare Inspector, Kanpur. On this a detailed report dated 19.04.2017 (CR-1) was prepared by Chief Inspector of Ticket (Line), North Central Railway, wherein it emerged from the records that the demised employee has not nominated any wife or person as legal heir for payment of settlement dues, etc. That at the same time another person viz Kiran Saxena has also filed claims for the same retiral dues thereby causing a dispute as to the correct legal heir. Hence the respondents have correctly rejected the claim of the applicant and directed her to obtain a legal heir succession certificate from a competent civil court. In the event therefore, the respondents cannot release the retirement dues of the demised employee to any of the two contesting wives/persons till either of them obtains a competent order with respect to the succession from a competent of Civil Court. That this Tribunal cannot decide the matter of succession and hence the OA needs to be dismissed.

4. The learned counsels for both the parties have been heard patiently at length and the pleadings as well as documents examined carefully.

5. In order to settle the matter certain relevant documents are reproduced below:-

**Report of Chief Ticket Inspector: Annexure CR-1**

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6. What the above document implies is, that in the Facilities Pass taken by the demised employee, the name of Neeraj Saxena and the stated son Dharmesh as well as Satyendra are mentioned but there is no other document specially any formal document as required especially concerning the naming of the wife of the applicant which would enable to settle the issue of as to who is the legal wife of the applicant. Therefore, the report states that since there is dispute as to who is the legal wife, therefore the matter needs to be settled by the competent officer.

7. It is further mentioned in the counter para 7 that the applicant of the present original application has filed case for succession bearing case number 97/ 70 off 2018 without impleading the respondent

number 6 in the present OA. As regards the private respondent number 6 (PR-6) her name is mentioned in the Kutumb register, voter card, aadhar card, ration card and LIC Policy as the wife of the demised employee (Annexure CA-2 & 3). However, as rightly asserted by the respondents 1-5, these are not legal documents with respect to pension or retiral benefits; hence they cannot be relied upon for giving benefit even to PR-6, Kiran Saxena. That the applicant had also in a bid to obfuscate and mislead this Tribunal, did not implead PR-6 initially, who was included only after an impleadment application was filed by PR-6 which was allowed by the Tribunal.

8. The inquiry report of the Chief Ticket Inspector (Line) abstracted above makes it very clear that the claim as to the correct legal heirs is under dispute. It is a matter of record also that the demised employee did not name any person as legal heir of retiral/pension benefits. As regards the applicant's citation of *Violet Isaac & Others vs another vs. Union of India*, the said judgment concerns dispute between the wife and brother of the demised employee i.e. to say it is not between two persons claiming themselves to be as wives and involves another family, viz the family of the brother with regards to claim. The Hon'ble Supreme Court has logically therefore, directed that the legal heir as per the guidelines which mandated the wife/widow as having the first right and the brother could not have any place in the hierarchy of lawful claimants

per the guidelines; hence there was no case of the brother. This is different from the claim of two wives itself being contesting claimants and therefore, the judgment is not applicable in all humility of this Tribunal. As records Kiran Saxena private Respondent No.6, the support documents presented namely family membership, ration card etc. are at best support documents and not documents which can help the case of the respondent-6 to establish uncontested legal heirship from the point of view being legal wife employee for retiral benefits.

The Hon Bombay High Court in the matter of **Kamalbai Venkatrao Nipanikar vs The State Of Maharashtra And ... on 31 January, 2019** has held that -

***47. Considering relevant pension Rules ..... the second wife in general parlance would not be entitled for family pension unless she is legally wedded wife. A second wife who is not legally wedded wife would not be entitled for family pension under Rule 116 of the Pension Rules.***

Thus, the case of private respondent No.6 is also not made out. In any case this Tribunal is not a competent Court to decide a law full succession and legal heirship.

**9.** Therefore, the impugned order is very much in concert with the lawful position and the respondents have not erred in the matter as to taking a position on the rightful claim of both the contesting persons claiming and correctly sought an order of the competent Civil Court for settling the matter of legal succession.

**10.** In the event therefore, on the basis of forgoing discussion, the OA is liable to be dismissed and is dismissed.

**11.** No order as to costs.

**(Devendra Chaudhry)**  
Member (A)

/Shakuntala/