

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.163/91

Date of decision: 7th Jul, 92

Smt.Chandra Wati ... Applicant
versus
Union of India & Ors. ... Respondents

CORAM:THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

For the Applicant ... Sh.S.R.Dwivedi,
Counsel.

For the Respondents 1 to 3 ... Ms.Sunita Rao,
Counsel.

For Respondents 4& 5 ... Sh.S.K.Jain, Counsel.

1. Whether the reporters of local papers may be allowed to see the Judgement? Yes.
2. To be referred to the Reporter or not? Yes.

JUDGEMENT

(DELIVERED BY HON'BLE MR.T.S.OBEROI, MEMBER)

This OA has been filed by Smt.Chandra Wati, who claims herself to be the widow of late Shri Bal Sarup, a Steam Raiser employed in Northern Railway, with headquarters at Saharanpur.

Said Sh.Bal Sarup died in harness on 9.5.90, as per a copy of the death certificate Annexure A-4. Her case is that she was married to late Shri Bal Sarup on 29.4.86, under the Special Marriage Act, 1954, as per a copy of the certificate, Annexure A-3 issued by the District Marriage Officer, Saharanpur, which is the conclusive proof regarding her marriage with late Sh.Bal Sarup, in terms of Section 13 of the said Act. She has also stated that, during the life time of late Sh.Bal Sarup, she had been availing ~~medical~~ medical facilities, and also P.T.Os, which also goes to show that she is legally-wedded wife of late Sh.Bal Sarup.. She has also filed along with the OA, the copies

/copies of some documents regarding of the P.T.Os as well as/ medical facilities availed by her in this capacity and has also stated that some other record must also be available with the respondents along with the service record of late Shri Bal Sarup, showing her as his legally-wedded wife. She has also averred that though Respondents 4&5 are respectively son and daughter of late Sh.Bal Sarup, from his first wife, they are grown up and settled in life, and hence she alone is the only legal heir, entitled to receive the settlement dues of late Sh.Bal Sarup on his demise. She has also prayed for some appointment being given to her on compassionate grounds.

2. In the counter filed on behalf of official respondents 1 to 3, it has been stated that since the payment of settlement dues to the applicant has been resisted by respondents 4&5, who are respectively, the son and the daughter of late Sh.Bal Sarup, from his first wife, who have also disputed her to be his legally-wedded wife under the Special Marriage Act, 1954, a succession certificate under the Indian Succession Act, would be necessary to be produced by the applicant. They further stated that the settlement dues would be immediately paid, on production of such certificate or on the consent having been given by the said major children of late Shri Bal Sarup, from his first wife.

3. In the counter filed on behalf of Respondents 4&5, the applicant's claim to be the legally-wedded wife of late Shri Bal Sarup has been disputed. They also took up the plea that she is not the legal heir much less the only surviving legal heir of the deceased, as stated by her in the

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OA, and thus she has not come with clean hands, while mentioning so in the OA. They have further stated that they are the nominees of late Sh.Bal Sarup, as per record of the Railway Administration.

4. In the rejoinder filed on behalf of the applicant, her claim as per the OA was reiterated, stating that the respondents 4&5 having been made parties in the case, nothing was attempted to be received, out of the settlement dues of late Sh.Bal Sarup, by withholding or suppressing anything in this regard, and her claim to be the sole surviving heir to receive the said dues, together with the prayer for employment on compassionate grounds, was based on the fact that both the respondents 4&5 were major and settled in life.

5. We have heard the learned counsel for the parties. While the learned counsel representing the applicant emphasised applicant's claim on the conclusive nature of the certificate Annexure A-3 and hence her entitlement to receive the settlement dues as well as the right for compassionate employment, the learned counsel for the respondents 4&5, pointed out certain special features of the applicant's case, by stating that she was also earlier married and had three children aged about 30 years, 26 years and 25 years, from his previous husband, indicating that she was quite ripe in her age, at the time of her alleged second marriage with late Sh.Bal Sarup, though the same is denied by the respondents 4&5. He also pleaded that the record of P.T.Os or the medical facilities availed, has hardly any significance, in the matter of deciding the heirship of late Sh.Bal Sarup, particularly when the respondents 4&5 claim to have nominations

in their favour, having been executed by their father, late Shri Bal Sarup.

6. We have given our careful consideration to the rival contentions, as briefly discussed above, and have also carefully perused the material on record. Keeping in view the peculiar facts and circumstances of the case, we are of the view that the interest of justice call for that succession certificate, from the competent civil court concerned, would be necessary, to be produced by the applicant in the case, for entitling her to the reliefs claimed by her in the present OA. Significantly enough, the applicant has not claimed to have nominations in her favour, having been executed by late Sh.Bal Sarup, in respect of the G.P.F subscriptions or other settlement dues except casually saying that her marriage with late Shri Bal Sarup may be verified from other record of Railway Administration. On the succession certificate being produced by the applicant, the official respondents may take appropriate action to disburse the settlement dues together with the request for compassionate employment, in accordance with the certificate so produced, and also in accordance with the rules and instructions, on the subject.

7. The OA is decided on the above lines, with no order as to costs.

B.N. Dhundiyal
(B.N.DHUNDIYAL) 7/7/92
MEMBER(A)

T.S. Oberoi 7.7.92
(T.S.OBEROI)
MEMBER(J)