

9

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO. 1407/2004

New Delhi, this the 15th day of December, 2004

HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

Suja Appan,
W/o Late Shri K.P. Appan,
R/o House No.445,
Sector-1, R.K. Puram,
New Delhi

Applicant

(By Advocate: Shri V. Hari Pallai)

Versus

1. Central Public Works Department
Through its Director General,
Nirman Bhawan, New Delhi

2. Executive Engineer,
'S' Division,
Central Public Works Department,
R.K. Puram, New Delhi

Respondents

(By Advocate: Ms. Promila Safaya)

O R D E R

BY HON'BLE MR. S.K. MALHOTRA:

The applicant in this OA is claiming to be the legally wedded wife of her deceased husband Shri K.P. Appan and has prayed that the respondents may be directed to pay to her the entire dues of her late husband along with interest.

2. The Govt. employee, Shri K.P. Appan was appointed as a Chowkidar in 1984 under the respondents' department. His first wife died in March, 1985. The applicant in this OA, who claims to be his second wife, has stated that she came in contact with Shri Appan and they developed mutual love and affection for each other. However, due to certain family pressure, Shri Appan was unable to immediately enter into a marital relationship with her.

(Signature)

10

She gave birth to a daughter in June, 1987 and a son in November, 1988. However, she got married to Shri Appan only in 1989. Shri Appan died in a road accident in August, 2003. According to her, Shri Appan left behind, apart from herself, her two children and a son from his first wife. She approached the department for releasing the dues of her husband and also filed an affidavit certifying her marriage with Shri Appan in 1989. She was later asked to produce a Succession Certificate from the competent Court, which she has not been able to do so far. She has been approaching the department for the release of her dues, but to no avail.

3. The respondents have filed a counter reply in which they have stated that the family pension, DCRG and GPF and other dues are to be released to the family of the deceased Govt. servant in accordance with the CCS (Pension) Rules, 1972 and based on the nomination made by the employee. It has also been stated that, according to Rule 5 (1) GPF (CS) Rules, a subscriber who has a family at the time of making the nomination shall make such nomination only in favour of a member or members of his family. The respondents have stated that Shri Appan had nominated Shri V.P. Madheswaran, his son from the first wife in the DCRG nomination form. However, the applicant has claimed that she has been nominated for payment of GPF under the relevant rules. It is stated that after the death of Shri Appan, his son Shri V.P. Madheswaran had claimed that he is the only son and the legal heir of his father. However, simultaneously the applicant, claiming to be his second wife, also demanded all the dues of her late husband including Gratuity, GPF, Leave Encashment, etc. She has submitted an affidavit regarding her marriage and stated that her two children are the legal heirs of the deceased. According to the photocopy of the Ration Card furnished by her, in 1995 the age of the children was shown as 14 and 13 years. In other words, the children were born sometime in 1980-81 while according to her own statement she got married to Shri Appan in 1989. This is contrary to the affidavit filed by her and since there were two claimants, i.e., the son from his first wife and his second wife, the respondents-department asked the applicant to produce Succession Certificate, which has not been produced by her so far.

a

4. I have heard the learned counsel for both the parties and have gone through the material placed on record.

5. During the course of discussion, the learned counsel for the applicant stated that the name of the applicant appears in the CGHS Card issued by the department in 1994. Her name also appears in the Ration Card and she had also availed of LTC along with her husband in 1997. Shri Appan also nominated the applicant for payment of GPF in his account which fact has not been controverted by the respondents. A photocopy of the Identity Card issued to her as wife of Shri Appan has also been produced. My attention has also been drawn to Annexure P-2A in which Shri Appan had requested the Department to make addition of her name as his wife in service record.

6. The learned counsel for the respondents, however, stated that Shri Appan, at no point of time, had ever informed the respondents about his second marriage with the applicant. There is no doubt that the children of the applicant were born before her marriage with Shri Appan in 1989. As the department is supposed to give the pensionary and other benefits to the legal heir and the family members of the deceased Govt. employee, they cannot accept the claim of the applicant based on her name appearing in the Ration Card, CGHS Card, Election Card etc. Unless the deceased employee for grant of pensionary benefits including DCRG, Insurance etc., had specifically nominated the applicant, they cannot accept her claim. The learned counsel for the respondents also stated that while the applicant has failed to produce a Succession Certificate, Shri V.P. Madheswaran, the son of his earlier wife has since produced the Succession Certificate in his favour from the Civil Court. He pointed out that it was not proper for the applicant to file this OA, without making Shri Madheswaran as a party as his rights are likely to be adversely affected, if the OA is allowed. He stated that as there are two claimants for the family pension and other dues, this Tribunal cannot adjudicate upon the legal heir of the deceased Govt. employee. Such a decision will have to be taken by the Civil Court. After the issue regarding succession and the legal heir is settled, the respondents

12

will have no objection in releasing the dues to the rightful claimant in accordance with the rules and instructions on the subject.

7. After hearing both the parties, I am of the view that the Tribunal has no jurisdiction to adjudicate the matter of succession and about the legal heir of the deceased Govt. employee, especially when there are two claimants and one of them has produced a Succession Certificate. The applicant has not produced any Marriage Certificate nor the deceased Govt. employee had ever informed about his second marriage to the respondents. In view of the above, the claim preferred by the applicant cannot be accepted. She should approach the Civil Court for adjudication of her status as the legally wedded wife of the deceased employee and obtain a Succession Certificate and in case she succeeds, she can approach the department again for the release of the dues who will take the decision in accordance with law.

8. As a result of the discussion, the OA is dismissed. No costs.

Omali
(S.K. Malhotra)
Member (A)

/pkr/