

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 29th day of APRIL 2004.

Original Application no. 437 of 2004.

Hon'ble Mr. A K Bhatnagar, Member-J.

Smt. Anjana Dixit, W/o late Hari Shanker Dixit,
Ex. Clerk in the office of Divisional Engineer, Tundla,
North Central Railway, R/o 61/39-F, Rasulpur, Sarai Khwaja,
Agra Cantt.,
AGRA.

... Applicant

By Adv : Sri B.L.Kulendra

V E R S U S

1. U.O.I. through General Manager, N.C. Rly.,
ALLAHABAD.
2. D.R.M. (P), N.C. Railway,
ALLAHABAD.

.... Respondents

By Adv : Sri A K Gaur

O R D E R

A.K. Bhatnagar, JM.

By this OA, filed under Section 19 of the A.T. Act, 1985, the applicant has prayed for issuing direction to respondent no. 2 to sanction the family pension under relevant extant rules from 1.11.1989 and payment of arrears thereof with interest @ 18% p.a. since delay in payment is on account of Railway administration.

2. The facts of the case, in brief, are that the applicant got married with one Sri Hari Shanker Dixit on 07.06.1984, who expired on 27.10.1989. The applicant has filed a photo copy of her marriage certificate dated 7.6.1984. It is evident from the photo copy of the affidavit filed before the Divisional Railwal Manager (in short DRM) by

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Mrs. Anjana Dixit dated 24.2.1994, ~~which shows~~ that she claims to be the second wife of deceased Hari Shanker Dixit, as the first wife of late H.S. Dixit died about **five** years back before the death of H.S. Dixit, leaving behind four sons and a daughter. The grievance of the applicant is that she is entitled for family pension and other retiral benefits of the deceased being a legally wedded wife. Hence this OA.

2. Learned counsel for the applicant submitted that an OA no. 1356/03 was filed on 09.10.2003 which was decided by order dated 11.11.2003, by which following order was passed:-

"Counsel for the respondents was seeking time to file reply but since applicant has stated categorically that she has not been given any reply so far by the respondents, I do not think it necessary to call for counter at this stage and feel that this case be disposed of at the admission stage itself by giving direction to respondents to decide the representation of the applicant in accordance with rules and instructions on the subject and specially by dealing with rule 96 18(3) and (7) of Railway servant (Pension) Rules, 1993. It goes without saying that the order to be passed shall be a speaking order. The same shall be passed within three months from the date of receipt of a copy of this order."

In pursuance to this order, the respondents passed order dated 04.03.2004 issued from the office of D.R.M. (P), N.C. Rly., Allahabad.

3. I have heard learned counsel for the parties, considered their submissions and perused records. I find that this case can be decided at the initial stage itself without calling for counter.

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4. Learned counsel for the respondents submitted that the OA is barred by period of limitation as the matter ^{the} relates to ~~the~~ controversy arose in the year 1989, while this OA has been filed on 19.04.2004. He further submitted that the earlier OA was decided only on the categorical statement of the applicant that she has already sent a representation which was still lying undecided by the department and now that controversy is over as the department has passed a detailed and reasoned order in pursuance of the OA filed by the applicant.

5. The only controversy involved in this case is whether the applicant or other family members of the deceased is legally entitled for the pensionary benefits of the deceased. I have gone through the letter dated 12.4.1990 filed alongwith annexure A1 issued from the office of DRM (P) N.C. Rly., Allahabad by which the applicant was requested to procure the succession certificate from the competent Court i.e. Court of District Judge and clearly informed the applicant that it will not be possible to release the said amount in absence of the succession certificate issued from the competent Court. It is an admitted fact that the first wife of the deceased H.S. Dixit died on 17.1.1984 leaving behind four sons and a daughter and the second son of the deceased Sri D.K. Dixit received the settlement dues of the deceased H.S. Dixit from the department after producing the succession certificate obtained from the Civil Court i.e. Civil Judge, Senior Division, Firozabad.

6. I have gone through the impugned letter dated 04.03.2004 (Ann 1) passed by the respondent no. 2 in pursuance to the order dated 11.11.2003 in OA no. 1356/03. In para 1

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of this letter it is clearly written that the claim of the applicant cannot be acceded/ to due to the legal dispute arising between her and sri ~~Giri~~ Prasad Dixit (father of the deceased). It is also written in the second para that the applicant was also advised by letter dated 12.04.1990 to file Civil suit before the Competent Court for grant of succession certificate for getting her alleged due claim. In para 3 of this letter D.K. Dixit, son of leter H.S. Dixit was asked to produce the succession certificate for payment of settlement dues of the deceased on his representation dated 11.10.1993. Copy of which was also sent to the applicant. The said D.K. Dixit filed Civil suit and obtained the succession certificate from the Competent Court, and produced it before the respondents on which the due payment was made to Sri D.K. Dixit. In the last para of this letter it is also mentioned that as the applicant has failed to substantiate her claim for payment of settlement dues in respect of late H.S. Dixit before the Competent Authority, inspite of full opportunity provided to her by the Railway Administration, whereas Sri D.K. Dixit succeeded to get ~~to get~~ settlement dues as per Court's order. I find the impugned letter is a detailed and reasoned order which does not need any intervention by this Court.

7. In view of the facts and circumstances and the above discussion, I find no merit in this case and this case is liable to be dismissed/ at the initial stage itself. Accordingly, the OA is dismissed being devoid of merit.

8. There shall be no order as to costs.

Member J

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