

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 11th day of April Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

M.A.Nos.310/238/2019

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M.A. No.310/239/2019

IN &

OA No 534 OF 2019

S. Malarkodi,
W/o. Late Saravanan,
16, Parivallal Street,
Ulundurpet- 606 107,
Villupuram-District.

....Applicant/Applicant

(By Advocate: M/s. M. Muthukannan)

Versus

1. The Union of India Rep. by
The Secretary,
Department of Posts,
Dak Bhavan, New Delhi- 110 001;
2. The Chief Post Master General,
Tamil Nadu Circle, Chennai- 600 002;
3. The Senior Superintendent,
R.M.S.T. Division,
Trichy- 620 001.

...Respondents/Respondents

(By Advocate: Mr. Su. Srinivasan)

ORAL ORDER


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


Heard. M.A. 238 of 2019 has been filed seeking condonation of delay of 140 days in re-presenting the OA papers. M.A. 239/2019 has been filed seeking condonation of delay of 1442 days in filing the OA.

2. This OA has been filed by the applicant seeking the following reliefs:-

"to call for the records relating to the impugned orders dated 08.08.2012 and 2.8.2013 passed by the second respondent to consider the applicant's representation dated 2.6.2012 and direct the respondents to appoint the applicant on compassionate grounds in any eligible post in the R.M.S.T. Division, Trichy where the deceased official was employed at the time of his demise on 08.02.2005."

3. It is submitted that the applicant's husband worked as Mailman in the respondent department and expired while in service on 08.02.2005. The applicant had married him on 29.4.1988 and had two daughters both of whom were married and staying separately. The applicant is without any means of livelihood and, therefore, she sought compassionate appointment. However, the respondents rejected her request on the ground that the deceased official married the applicant on 29.4.1988 during the lifetime of his first wife. Since the date of death of the first wife was 1.3.1993 and the marriage preceded this date at a time when the legally wedded first wife was alive, the second marriage of the government servant while in service was null and void.



4. Learned counsel for the applicant would submit that the respondent failed to appreciate that the applicant had no means of livelihood and required support. Further, the respondents did not take note of the fact that the first wife was ill and the second marriage happened with her consent. It is alleged that the applicant was entitled to compassionate appointment in terms of the Succession Certificate which the applicant obtained from the Court of Principal District Munsif Ulundurpet in O.P. No.2/2008 dated 11.09.2008 duly impleading the respondents herein as a party in the proceedings. Accordingly, the order would be binding on them, it is contended.
5. Mr. Su. Srinivasan, Learned Sr. Central Government Standing Counsel takes notice for respondents submits that the delay of 1442 days in filing the OA could not be condoned lightly and, both the MAs as well as the OA were liable to be dismissed at the threshold. He seeks leave of the court to file a detailed reply to the MAs opposing the prayer for condonation of delay in filing the O.A
6. I have considered the matter. The respondents have rejected the applicant's claim on the ground that her marriage with the deceased government servant was not valid. On perusal of the succession certificate, it appears that the same had been issued for the purpose of enabling the successors to claim the amount and subsequent interest thereon due to the deceased employee. There is nothing in the order to suggest that the validity of the marriage was an issue before the Civil Court and the same was upheld in favour of the applicant.
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7. In the above facts and circumstances, I am of the view that this Tribunal is not competent to adjudicate whether the marriage of the applicant with the deceased government employee when the first wife was living was valid or not. This can only be gone into by the competent Civil Court. Since there is no declaration as to its validity by the competent Civil Court, it is not possible to fault the respondents for rejecting the claim of the applicant.

8. Right to succession and eligibility for compassionate appointment are two different matters. OA is misconceived and is accordingly dismissed. MA for condonation of delay in re-presenting the OA and the MA for condonation of delay in filing the OA stand disposed of in the light of this order. No costs.