

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00077/2019

Date of Order: This, the 13th Day of April, 2021

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, MEMBER (A)



Mrs. Raihena Begum
 W/o Late Feroz Ali Ahmed
 (Ex-SDI, Nagaon West Sub-Division)
 D/o Md. Hafizuddin Ahmed
 R/o Nava Jyoti Path, Naliapool
 P.O. & P.S. – Dibrugarh, Dist – Dibrugarh
 Assam, Pin – 786001.

... Applicant

- Versus -

1. The Union of India
 Represented by the Secretary
 To the Government of India
 Ministry of Communication
 Department of Posts
 New Delhi – 110011.
2. The Chief Postmaster General
 Assam Circle, Meghdoott Bhawan
 Panbazar, Guwahati – 1.
3. The Director of Postal Services
 (HQ), Assam Circle, Panbazar, Guwahati – 1.
4. The Postmaster General
 Dibrugarh Region, Dibrugarh
 Near Naliapool Masjid
 P.O. & P.S. – Disbrugarh, Pin – 786001.

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5. The Superintendent of Post Offices
Nagaon Division, Nagaon, Pin – 782001.
6. Musstt. Ambia Begum
W/o Late Arfan Ali
R/o Padum Nagar
Opposite Baruah Petrol Pump
P.S. – Dibrugarh, Dist – Dibrugarh
Assam, Pin – 786001.

...Respondents.



For the Applicant : Sri A. Mannaf

For the Respondents : Sri S.K. Ghosh, for res. Nos. 1 to 5
Sri S. Sharma & Sri P.M. Kalita
and Sri Ashim Roy
For private res. No. 6

Date of Hearing: 03.03.2021 **Date of Order: 13.04.2021**

O R D E R

NEKKHOMANG NEIHSIAL, MEMBER (A):-

After repeated adjournments for want of written statement to be filed by the respondents including private respondent No. 6, the case was heard on 03.03.2021 and reserved for orders. On that day, learned counsel for private respondent No. 6 was not present.

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2. Sri A. Mannaf, learned counsel appearing for the applicant submitted that since there is no doubt about the marriage of the applicant with the deceased employee, there is no reason to deny her the reliefs sought for in the OA. He also submitted that the contention of private respondent No. 6 that the applicant has since been divorced by the deceased Govt. servant through the documents already submitted is contradicted by the translated copy/document/letter dated 06.08.2018 of Govt. Muslim Marriage & Divorce Registrar and Kazi, Dhing, Dist – Nagaon (Assam) produced in the court during the hearing which amongst others stated that no 'Talaknama' has been recorded against the person (i.e. Raihena Begum). Sri S.K. Ghosh, learned Addl. CGSC appearing for official respondent Nos. 1 to 5 submitted that the respondent authorities would go by the decision and order of the Tribunal on the issue. He also mentioned that the respondent authorities/departments are not sure how far the claim of the 3rd party regarding



divorce of the applicant by the deceased Govt. employee could be legally sustainable. On the next day i.e. 04.03.2021, Sri Ashim Roy, learned counsel appearing for private respondent No. 6 appeared and prayed that he could not make to the court during the hearing on previous day i.e. 03.03.2021 due to traffic jam. He requested for allowing him to submit written argument. Accordingly, he was allowed to submit written argument vide order dated 04.03.2021. He submitted the same on 12.03.2021.



3. On perusal of the written argument submitted on behalf of respondent No. 6, it is seen that the respondent No. 6 is basically pleading that as per Section 19 of the Administrative Tribunals Act, 1985, the O.A. is premature and does not come within the ambit of the Tribunal. Since applicant's family pension matter is pending at Regional Office, it cannot be treated as an order determining the right of the applicant. Since there is no order rejecting her applicant or any other order passed making the applicant aggrieved, this

Tribunal may not have jurisdiction over the matter and O.A. is liable to be dismissed.



4. I have considered this submission and found to be not acceptable. Since the respondent authorities submitted that they are not able to go ahead with considering the application of the applicant and she is definitely aggrieved with this stand of the respondents, the issue is found to be very much within the jurisdiction of the Tribunal and empowered to consider and adjudicate. Moreover, respondent No. 6 has all along been contesting case by filing counter affidavit/written statement against the OA

5. In this O.A., applicant is asking for the following reliefs:-

- “8.(i) To pass appropriate order or direction to the respondent authorities particularly to the respondent No. 5, the Superintendent of Post Offices, Nagaon Division, Nagaon to look into the grievance of the applicant and to consider her case for family pension and other service benefits under relevant Central Pension Scheme.
- (ii) To pass appropriate order of direction to the respondent authorities to dispose of the applications dated 17.08.2017, 30.10.2017, 08.11.2017 and 16.03.2018 filed by the applicant before the respondent No. 5, the Superintendent of Post Offices, Nagaon Division.

- (iii) To pass any other order or orders as deemed fit, proper and adequate by this Hon'ble Tribunal in the interest of justice.

She also prayed for interim relief as follows:-

“During pendency of this case, in the interim, the applicant prays for a direction to the respondent authorities particularly the respondent No. 5, the Superintendent of Post Offices, Nagaon Division, Nagaon to initiate the process immediately for granting family pension and other service benefits of the applicant under relevant Central Pension Scheme for the ends of justice.”



6. In response to this O.A., the official respondent Nos. 1 to 5 filed their written statement on 29.10.2019.

Among others, they have stated as under:-

(a) Mrs. Raihena Begum wife of late Feroz Ali Ahmed has applied for pension and other death benefits to be paid on death of Late Feroz Ali Ahmed. At the same time Mrs. Ambia Begum mother of Late Feroz Ali Ahmed objected that Mrs. Raihena Begum was not residing at the residence of Late Feroz Ali Ahmed and had divorced with Late Feroz Ali Ahmed. Mrs. Ambia Begum mother of Late Feroz Ali Ahmed had submitted some documents issued from the KAZI OFFICE, DHING relating to divorce. On inquiry from KAZI OFFICE, DHING, it is found that the documents submitted by Mrs. Ambia Begum relating to divorce is not legal document as per Muslim LAW.

(b) They also stated that the applicant married the deceased Govt. employee Late Feroz Ali Ahmed as admitted by respondent No. 6. They further stated that Late Feroz Ali Ahmed had expired on 06.08.2017, but another certificate was obtained by Smt. Ambia Begum, mother of Late Feroz Ali

Ahmed indicating the date of death as 13.08.2017. Since there is dispute between the applicant and private respondent No. 6, respondent authorities are not in a position to finalize the family pension and other service benefits of Late Feroz Ali Ahmed till receipt of actual NEXT OF KIN CERTIFICATE of the deceased official i.e. Late Feroz Ali Ahmed. Therefore, question of violation of natural justice and administrative fairness besides the violation of Article 21 of the Constitution of India does not arise.



7. On 12.09.2019, private respondent No. 6 i.e. Smt. Ambia Begum, mother of the deceased employee, filed her written statement. In her written statement, she admitted that the applicant got married with her son Late Firoz Ali Ahmed on 13.12.2015 and her son Firoz Ali Ahmed expired on 06.08.2017. She also enclosed an affidavit dated 30.08.2018, Anneuxre-R4, page 65 to the O.A., supporting the death of her deceased son as 06.08.2017. She also stated that after marriage, the couple could not pull on together and after staying together for about two weeks, the applicant had left her husband on 29.12.2015. Respondent No. 6 further stated that her deceased son pronounced 'Talaaq' on 01.01.2017 at Nagaon.

8. Against the written statement filed by respondent No. 6, applicant Smt. Raihena Begum submitted her rejoinder on 05.01.2021. Along with rejoinder, she also enclosed certified copy of Marriage Certificate dated 21.12.2015 with Joint Photograph of the couple thereon indicating the marriage as 13.12.2015. She also submitted rejoinder to the written statement filed by the respondent No. 5 on 05.01.2021.



9. After detail hearings and minute perusal of all the documents submitted by all the parties including private respondent No. 6, following picture has emerged that:-

(i) It is factually proved as admitted by all the parties involved that the applicant did get married with the deceased Govt. employee on 13.12.2015. This is also unequivocally admitted by respondent No. 6.

(ii) It is also factually proved that deceased employee Late Firoz Ali Ahmed has expired on 06.08.2017, duly supported by the statements and documents submitted by them except one.

(iii) The claim of respondent No. 6 that the deceased Govt. employee Late Firoz Ali Ahmed had divorced/pronounced

Talaq on the applicant on 01.01.2017 at Nagaon is not beyond reasonable doubt. Since respondent No. 6 is only 3rd person in the context of marriage relation between the deceased Govt. employee and his wife i.e. applicant, the claim of respondent No. 6 is found not acceptable.

(iv) The learned counsel for the applicant also submitted that, as stated above, there is no such Registration of Talaq Nama in their translated letter dated 06.08.2018.

(v) It is also seen from the records that the deceased Govt. employee Firoz Ali Ahmed had nominated respondent No. 6 i.e. Musstt. Ambia Begum (Mother) in the Form of Nomination dated 16th March 2000 which was duly accepted by the competent authority on 13.06.2000.



10. Keeping in view of the above records and logic as stated above, the case is hereby adjudicated as under:-

- (i) The respondent authorities may process the application of the applicant i.e. Ms. Raihena Begum for consideration of granting family pension to her as admissible under the law; and
- (ii) On the basis of Nomination submitted by the deceased employee Late Firoz Ali Ahmed and approved by the department, all other terminal benefits as admissible, may be processed in favour of Musstt. Ambia Begum

(Mother of the deceased employee),
private respondent No. 6.

(iii) Entire exercise shall be carried out by the respondent authorities as expeditiously as possible, but not later than three months from the date of receipt a copy of this order.

11. With the above directions, O.A. stands disposed of. No order as to costs.



(NEKKHOMANG NEIHSIAL)
MEMBER (A)

PB

O.A. No. 040/77/2019