

22/2/21

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH, NIZAM PALACE,

KOLKATA

ORIGINAL APPLICATION NO. 350/00143 OF 2020

Bholanath Chowdhury, son of late
Haricharan Chowdhury, residing at
Dharsa Brahmin Para, Post Office-
GIP Colony, Police Station-
Jagachha, District-Howrah, Pin -
711 112.

.....Applicant

Versus

1. Union of India, service through
the Secretary, Ministry of Housing
& Urban Affairs, Directorate of
Printing, having its office at
Government of India Press, 1,
Temple Street, Kolkata-700072,
within the aforesaid jurisdiction.

2. Director, Directorate of
Printing, Ministry of Housing &
Urban Affairs, B Wing, Nirman
Bhawan, New Delhi-110001
outside the aforesaid jurisdiction.

3. Deputy Director (A-I),
Directorate of Printing, Ministry of
Housing & Urban Affairs, B Wing,
Nirman Bhawan, New Delhi-
110001 outside the aforesaid
jurisdiction.

4. Assistant Manager (Admn),
Government of India Press, 1,
Temple Street, Kolkata-700072,
within the aforesaid jurisdiction.

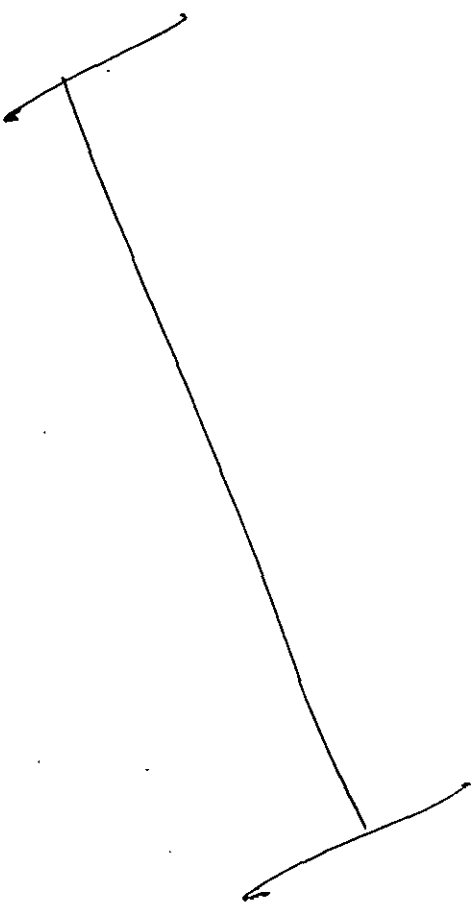
.....Respondents

5. Tanusree Chowdhury (nee
Das), wife of Bholanath

3

Chowdhury, daughter of Kartik
Chandra Das, residing at Village-
Datkanara, Lakhimpur, Post Office-
Lakhimpur, Police Station-
Chanditala, District-Hooghly, Pin-
712404.

.....Private respondent



**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/350/00143/2020

Date of Order: 22.02.2021



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Bholanath Chowdhury.....Applicant

Vrs.

Union of India & Ors.Respondents

For the Applicant(s) : Mr. S.Mitra, Counsel

For the Respondent(s): Ms. D.Nag, Counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

This application has been preferred to seek the following reliefs:

"(a) An order do issue directing the respondent authorities and each one of them and their men, agents and assigns to show cause as to why the office memorandums dated 21st June, 2019 and 23rd August, 2019 being No. A-34012/I/P/III/(Sent)/Pen/Misce/2019/834 and A-34012/I/E-III/(Sent)/Pen/Misce/2019/1518 being Annexure A-12 and A-14 hereof should not be set aside and/or quashed and/or withdrawn and/or rescinded;

(b) An order do issue commanding the respondent authorities and each one of them, their men, agents and assigns to forthwith withdraw and/or rescind and/or cancel and/or forebear the office memorandums dated 21st June, 2019 and 23rd August, 2019 being Annexure A-12 and A-14 hereof;

(c) An order do issue prohibiting and/or restraining the respondent authorities and each one of them, their men, agents and assigns from giving any effect or further effect to

the office memorandums dated 21st June, 2019 and 23rd August, 2019 being Annexure A-12 and A-14 hereof pending disposal of the applications;

(d) An order directing the respondents to transmit and certify all records relating to this case before this Hon'ble Court so that conscionable justice may be rendered to the applicant.

(e) An order do issue commanding the respondent authorities and each one of them, their men, agents and assigns to immediately accept the format duly filled up by the petitioner for the purpose of nominating his legal nominees in terms of Civil Service (Conduct) Rules, 1964 more particularly Section 2(c)(iii) of the said Rules;

(f) An order be passed directing the respondents to pay entire costs and incidentals of this application of the applicant."

2. The impugned orders are quoted verbatim herein below for clarity:

A-34012/1/E-III(Sant)-Pen/Misc/2019/834

Date : 21.06.2019

To

Shri Bholanath Chowdhury
Attendant Offset
Government of India Press
1, Temple Street, Kolkata-72

Sub : Information regarding confirmation of authenticity of marriage certificate and nomination.


Ref : Your reply received by the press as on 12.06.2019.

Sir,

I am to inform you that as per confirmation of authenticity of marriage certificate issued by the Office of the Registrar General of Marriage, Govt. of West Bengal that the name of your wife Smt. Tanushree Chowdhury has been taken/entered as legal wife in service book.

Accordingly you are therefore requested to submit the nomination papers in respect of all pension papers at the earliest otherwise action will be taken against you for violation of CCS (Conduct) Rules.

Yours faithfully,


21/VI/19
(S. Das. Sarma)
Asstt. Manager (Admn.)

A-34012/1/E-III(Sant./Pen/Misce/2019/1518

Date: 23.08.2019

To
 Shri Prakash Ch. Bhattacharya
 79/3, M.C.Ghosh Lane
 (Near Belilious Road)
 Howrah - 711101

Suo Reg. register the name of wife of Shri Bholanath Chowdhury
 in his service record.

Sir,

I am to inform you that you have requested this office not to record the name of Smt. Tanushree Chowdhury, wife of Shri Bholanath Chowdhury in the service record of Shri Bholanath Chowdhury. In this connection it is stated that Smt. Tanushree Chowdhury is legal wedded wife of Shri Bholanath Chowdhury and it has already proved from their verified marriage certificate. It has also been informed by you that one Divorce case has filed (Matrimonial Suit) before the Ld. District Judge at Howrah (W.B.), but it is still pending.

In this situation your request cannot be acceded to and it is also informed that as and when outcome of Divorce case is received, action will be taken accordingly.

Yours faithfully,

(S.Das Sarma)

Asstt. Manager (Admn)

Copy to :-

1. The Deputy Director(A-I), Directorate of Printing, Ministry of Housing & Urban Affairs, 'B' wing, Nirman Bhawan, New Delhi - 110011 with reference to their Office Memorandum vide No.31/2/2018-A-III, dt. 8.8.2019.
- ✓ 2. Shri Bholanath Chowdhury, Attendant Offset, Govt of India Press, 1, Temple Street, Kol-72 with the request to submit your pension Papers at the earliest as your retirement date is due on 31.01.2020 (A.M.) otherwise this office will not be responsible for delay settlement of Pension.

(S.Das Sarma)

Asstt. Manager (Admn)

3. It is evident from the letters quoted above that the respondents' office is refusing to finalise the pension of the applicant, on his inability to furnish joint photograph with his estranged wife and the applicant, as is evident from the pleadings, is not willing to nominate his wife against whom he has sought for divorce, on the ground of her inhumane and ruthless behaviour, inflicting physical and mental cruelty due to her schizophrenia etc.

4. It was submitted, at hearing, that a personal feud with his wife has led to a divorce proceeding and the applicant is not able to get a joint photograph clicked

with his estranged wife. But, such non-furnishing should not be a ground for withholding/non-payment of his pension, which can be forfeited or withheld only upon taking recourse to the Pension Rules.



5. The applicant has already nominated his niece for DCRG etc. If such nomination is not valid the authorities may ignore it, but under no circumstances withhold payments of retiral benefits or pension. No rules have been furnished to show that nomination of wife, against whom divorce proceedings on the ground of cruelty is pending, is mandatory for a government servant to receive his own pension and retiral dues. Instead, the following Govt. of India decisions are noted:

"GOVERNMENT OF INDIA'S DECISION

Importance of nominations and their safe custody. –
Nomination for death/retirement gratuity and related notices are important documents on the basis of which the claims of the beneficiaries have to be established and settled.
Instances of cases have come to notice where nominations made by deceased officers and related papers were not traceable in the official records of the Head of the Offices and were treated as lost. This defeats the very purpose underlying nominations and causes inconveniences and delay all round. To obviate the possibility of such losses in future, it has been decided that the nomination papers should, after countersignature, be kept in a separate confidential file which should be lodged for safe keeping with the Head of the Office or other responsible officer nominated by him for this purpose, and a clear note made in this service book of the officer as to what nominations and related notices have been received from him and where they have been lodged for safe custody, so that there should be no difficulty in locating the documents when the occasion for making a reference to them arises.

[G.I., M.F., O.M. No. F. 21 (4)-E. V/59, dated the 6th April, 1960.]

The need for observance of the above instructions cannot, perhaps, be overemphasized. The need for



nomination arises consequent upon the death of a Government servant while in service or after retirement before receipt of the death/retirement gratuity. In those cases, where valid nominations already exist, the claims of the nominees are likely to be settled expeditiously as provided in sub-rule (1) (a) of Rule 51 of CCS (Pension) Rules, 1972. But in those cases, where no nominations have been filed or even if filed by the Government servant but lost in office due to lack of proper care, the gratuity is payable to the members of the family in the manner prescribed in sub-rule (1) (b) *ibid*. A number of cases have also come to notice of Government where Government servants having died without making any valid nominations, the surviving members of their families approach courts for grant of succession certificates in order to entitle them to their share of the gratuity. It may be clarified in this regard that payment of death/retirement gratuity to the members of family of a deceased Government servant is normally to be made according to the relevant service rules. While payment on the basis of a succession certificate would discharge Government's liability, a succession certificate does not necessarily create an obligation on the part of the Government to pay the amount. Such a claim can be resisted if it is otherwise not in order. Therefore, in order to save the families of the Government servants from the expenditure involved on the court fees for obtaining succession certificates and the inevitable delay which this process entails, the Government servants may be advised to file their nominations in the prescribed forms without fail.


The Ministries/Departments and offices concerned are also requested to review the service records of all their employees and ensure that nominations have been obtained from all the Government servants, necessary entries made in their service books as laid down in the orders referred to above and the relevant records preserved properly to avoid such situations.


[G.I., M.F., O.M. No. 7 (5)- E. V (B)/74, dated the 22nd January, 1975.]”

The explicit clarification in regard to importance of nomination does nowhere specify that a nomination is mandatory.

6. In absence of any specific rules debarring release of pension to a pensioner on the ground of not nominating his estranged wife, we would dispose of the Original Application with a direction upon the respondent authorities to consider the prayer of the applicant for release of his retiral dues within 3 months in accordance with law and release the dues at the earliest, if nothing else stands in the way. No costs.




(Dr. Nandita Chatterjee)
Member (A)


(Bidisha Banerjee)
Member(J)

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