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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

KOLKATA BENCH, KOLKATA

O. A. No.350/ 346 of 2021

M.A.No.350/130/2021

1. Sumati Tubid, widow of Late Guman Sing Tubid, aged about 32 years, by occupation Housewife.

2. Gurubari Tubid, widow of Late Guman Sing Tubid, aged about 40 years, by occupation Housewife.

Both residing at Village & P.O. Hatigoda, P.S. Thakurmunda, District Mayurbhanj, Odisha, Pin-757038.

... APPLICANTS

VERSUS

1. UNION OF INDIA, service through the General Manager, Metro Railway, 'Metro Rail Bhawan', 33/1, Chowringhee Road, Kolkata-700071.

2. THE PRINCIPAL CHIEF PERSONNEL OFFICER, Metro Railway, 'Metro Rail Bhawan', 33/1, Chowringhee Road, Kolkata-700071.

3. THE SENIOR PERSONNEL

**OFFICER, Metro Railway, Metro Rail
Bhawan', 33/1, Chowringhee Road,
Kolkata-700071.**

... RESPONDENTS

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O.A.350/346/2021
M.A.350/130/2021

Date of order : 13.08.2021

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

1. SUMATI TUBID
2. GURUBARI TUBID
VS.
UNION OF INDIA & OTHERS
(Metro Railway)

For the Applicant : Mr. B. Chatterjee, counsel

For the Respondents : Ms. S. Chowdhury, counsel

ORDER

Bidisha Banerjee, Judicial Member

Ld. counsels were heard.

2. The M.A.No.350/130/2021 for permission to file joint application is allowed.

The O.A. has been preferred to seek the following reliefs:-

"a) An order directing the respondent authorities to disburse the settlement dues in lieu of unfortunate demise of Guman Sing Tubid, Ex-Loco Pilot(Shunter) in favour of the applicants herein;

b) An order directing the respondent authorities to disburse the family pension in lieu of unfortunate demise of Guman Singh Tubid, Ex-Loco Pilot (Shunter) in favour of the applicants herein;

c) An order directing the respondent authorities to disburse the said settlement dues upon adding the interest amount at the prevalent Bank rate to be calculated on and from 26.01.2016 in favour of the applicants herein;

d) An order directing the respondents to produce/caused production of all relevant records;

e) Any other or further order or orders or direction as to Your Lordships may deem fit and proper."



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3. The undisputed facts are as under:-

The husband of the applicants, namely, Guman Singh Tubid while working as Loco Pilot (Shunter) in Electrical Department of Metro Railway, Kolkata expired on 26.01.2016. The employee had two wives. The first wife, namely Gurubari Tubid has two minor daughters namely, Chandru Tubid and Gangi Tubid. The second wife of the deceased employee executed an affidavit on 2nd June, 2017 that she has no objection to payment of monthly pension to the first wife, Gurubari Tubid and prayed for other settlement dues vide application dated 06.06.2017.

4. The Respondents vide letter dated 16.08.2017 as contained in Annexure A/6 advised both the widows to settle the dispute before a competent court of law and obtain a Succession Certificate/Declaratory Decree in regard to their status. Thereafter the applicants preferred incessant representations to the authorities praying for settlement dues and grant of compassionate appointment, but all their efforts went in vain. Meanwhile Gurubari Tubid preferred O.A.No.551 of 2018 before Cuttack Bench of this Tribunal but later withdrew the same as "not interested to pursue this case" on 27.02.2019(Annexure A/10).

5. At hearing Id. counsel for the applicants would submit that in terms of Para 7(i)(a) of Rule 75 of Railway Pension Rules, family pension is payable to more widows than one and can be distributed in equal shares. As per para 7(i)(b) of Rule 75 of Railway Pension Rules, in case of death of a widow, her share of family pension shall become payable



to her eligible child. Para 7(i)(a) and (b) of Rule 75 of Railway Service Pension Rules, 1993 is reproduced below :-

"(7)(i)(a) Where the family pension is payable to more widows than one, the family pension shall be paid to the widows in equal shares;

(b) On the death of a widow, her share of the family pension, shall become payable to her eligible child:

Provided that if the widow is not survived by any child, her share of the family pension shall not lapse but shall be payable to the other widows in equal share, or if there is only one such other widow, in full, to her."

Ld. counsel for the applicants would further submit that since the applicants belong to Schedule Tribe community, their husband was entitled to 2nd marriage and on the death of the employee both his widows i.e. the applicants are entitled to family pension in terms of Para 7(i)(a) of Rule 75 of Railway Services Pension Rules, 1993 as held by Hon'ble High Court at Calcutta in WPCT.121 of 2016. The extract of the said decision reads as under:-

"The Petitioner No.1 claims to be the second wife of Goal Hansda, who died in harness on 24th February, 2013. The Petitioner No.3, Jhuma Hansda nee Soren and the Petitioner No.4, Ruma Hansda nee Mandi are the married daughters of the Petitioner No.1 and Gopal Hansda. The Petitioner No.2, Sumitra Hansda nee Soren and the Respondent No.5, Suchitra Murmu are the married daughters of Respondent No.4, Parbati Hansda and Gopal Hansda. The Petitioner No.1 claims that she is entitled to Family Pension and all other benefits accruing to the family after the death of Gopal Hansda."

The first wife of Gopal Hansda, Respondent No.4, filed an application before the Central Administrative Tribunal, Calcutta Bench, for disbursement of the legal dues accruing to her on the death of Gopal Hansda. These include Family Pension, Gratuity, Provident Fund, Leave Salary and other legal dues. The second wife, i.e. the Petitioner No.1 herein, was not a party to that application.

The Tribunal held that the direction of the Railways to the Respondent No.4 herein, i.e. the first wife of Gopal Hansda, to produce a Succession Certificate was illegal inasmuch as she was the nominee and, therefore, there was no need to obtain such a Certificate. The Tribunal further held that the amount should be disbursed to the first



wife/Respondent No.4 herein within a period of two months and she would hold it as a Trustee for all the legal heirs of the deceased employee.

Aggrieved by that order, the Petitioners have approached this Court.

There is no dispute that Gopal Hansda and his two wives belong to the Scheduled Tribes community. Therefore, a second marriage between such parties is recognised. On the death of Gopal Hansda, both his wives would be entitled to Family Pension in view of Rule 75 of the Railway Services Pension Rules, 1993.

Accordingly, we direct that the Railways shall distribute the Family Pension in equal shares to both the Petitioners No.1 herein, Smt. Salma Hansda and the Respondent No.4, Smt. Parbati Hansda. As regards the other dues payable on the death of Gopal Hansda, i.e. Gratuity, Provident Fund, Group Insurance, Leave Salary etc., they shall be paid in equal shares to all the legal heirs of Gopal Hansda, i.e. his two wives and their children. Both the wives have two daughters each. Therefore, these benefits shall be distributed in six equal shares to the heirs of Gopal Hansda. The amount shall be distributed within four weeks from today.

The petition is disposed of accordingly.

Photostat certified copy of this order, if applied for, be given to the learned Advocates for the appearing parties upon compliance of all necessary formalities."



Ld. counsel would vociferously contend that the authorities ought not to have asked her to furnish Succession Certificate or Declaratory Decree from competent court of law, particularly in view of the fact that the other widow, namely, Gurubari Tubid withdrew her application that was preferred before Cuttack Bench. Ld. counsel would fervently appeal to this Bench that the Railways be directed to disburse family pension to the first wife and settlement dues to the second wife.

6. The respondents' counsel was directed on earlier occasion to take instruction or file a short reply regarding entitlement of the 2nd wife to the settlement dues of the deceased employee but no reply has been filed in the matter.

7. In view of the decision of the Hon'ble High Court supra both the counsels agree that the matter can be disposed of with a direction upon the respondent authorities to reconsider the prayer of the applicants. Accordingly the respondents are directed to reconsider the prayer of the applicants in the light of the decision in WPCT.No.121 of 2016 supra and pass appropriate orders within a period of 2 months from the date of receipt of this order.

8. The O.A. stands disposed of. No order as to costs.



(Dr. Nandita Chatterjee)
Administrative Member
sb

(Bidisha Banerjee)
Judicial Member