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O. A. NO. 350/904/2020

An application under Section 19 of the Administration Tribunal's Act, 1985
BETWEEN

1. SMT. JHUMA MAITY, wife of
Late Ritesh Maity, residing at 2D,
Ganesh Banerjee Lane, PO- Dhakuria,
PS- Garfa, District - 24 Parganas
South, Kolkata - 700031.

2. SRI RITTIK MAITY, son of
Late Ritesh Maity, residing at 2D,
Ganesh Banerjee Lane, PO- Dhakuria,
PS- Garfa, District - 24 Parganas
South, Kolkata - 700031.

... Applicants.

-Versus-

1. UNION OF INDIA, service
through the General Manager, Eastern
Railway, Fairlie Place, Kolkata-700001.

2. THE DIVISIONAL RAILWAY
MANAGER, Sealdah Division, Eastern
Railway, Kolkata - 700014.

3. THE SR. DIVISIONAL
PERSONNEL OFFICER, Sealdah
Division, Eastern Railway, Kolkata -
700014.

4. THE DISTRICT
MAGISTRATE/COLLECTOR, South
24-Parganas, New Treasury Building,
7th Floor, Alipore, Kolkata-700027.

... Respondents.

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH**

OA/350/904/2020
MA 500/2020

Date of Order: 24.3.2021



Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Jhuma Maity & Anr. Applicants

Vrs.

Union of India & Ors. Respondents

For the Applicant(s) : Mr. Arpa Chakraborty, Counsel

For the Respondent(s): Mr. T.K.Chatterjee, Counsel

ORDER (ORAL)

Bidisha Banerjee, Member (J):

M.A. No. 500/2020 filed by the applicants (mother and son) under Section 4(5)(a) of CAT (Procedure) Rules, 1987, praying to prosecute this case jointly is allowed and disposed of.

2. This application has been preferred to seek the following reliefs :

"i) Office Order being No.PEN/SDAH/E-13 dated 19.09.2019 and Office Order being No. PEN/SDAH/E-13 dated 19.08.2019 issued by the respondent No.3 are not tenable in the eye of law and as such the same may be quashed.

ii) An order do issue direction the respondents to grant family pension and disburse other settlement benefits and terminal dues of her late husband in favour of the applicants forthwith along with all arrears and interest accrued thereon with all consequential benefits.

iii) Costs and Incidentals.

iv) Pass such further or other order or orders."

3. The orders dated 19.08.2019 (Annexure A-2) and 19.09.2019 (Annexure A-

4), impugned herein, read as under:

EASTERN RAILWAY

No.PEN/SDAH/E-13.

Sealdah, dt. 19/08/2019.



1. Smt. Jhuma Maity,
2/D, Ganesh Banerjee Lane,
Dhakuria, Kol-700031.

2. Smt. Amrit Maity,
Vill-Gourisal, PO-Gangsara,
Dist-Nadia, PIN-741238.

3. Smt. Suparna Maity,
P-15, Modern Park,
Purba Jadavpur,
24-Pgs.(S), PIN-700075.

Sub : Obtaining of Succession Certificate for payment of
Settlement dues of Lt. Ritesh Maity, Ex.CC/GIA,
expired on 20.02.2018.

Ritesh Maity working as Commi.Clerk at Garia Sta. Expired on 20.02.2018. He
was not executed any nomination for payment of Settlement dues. In order to release
the above payment, obtaining of Succession Certificate from the Competent Court of
Law is required as per rule.

In this connection, you are requested to obtain succession certificate from the
competent court of Law for the following payment:

1) G.S. money	: Rs.41,915.00
2) PF Money	: Rs.1,62,753.00
3) DLI Money	: Rs.60,000.00
4) Leave Salary	: Rs.4,19,815.00
5) DCRG money	: Rs.8,53,860.00

Total = Rs.15,38,343.00

(Rupees Fifteen Lakh Thirty Eight Thousand Three Hundred Forty Three only).

While obtaining the Succession Certificate all legal heirs should be impleaded as
party on it. After obtains the Succession Certificate from the Competent Court of Law,
the same is to be submitted to this office in original along with petition-copy and court's
order of the Lt. Court issued at the time of Succession Certificate.

3/19
For Sr.Dr. Personnel Officer
E.Ry./Sealdah.

No. PEN/SDAH/E-13

Sealdah dt. 19/09/2019

1. Smt. Jhuma Maity,
2/D, Ganesh Banerjee Lane,
Dhakuria, Kol-700031.

2. Smt. Amrita Maity
Vill-Gourisal, PO-Gangsara,
Dist-Nadia, PIN-741238.

3. Smt. Suparna Maity,
P-15, Modern Park,
Purba Jadavpur,
24-Pgs.(S), PIN-700075.

Sub: Obtaining of Succession Certificate for payment of
Settlement dues of Lt. Ritesh Maity, Ex.CC/GIA, expired on
20.02.2018.

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Ref: This office letter of even no. dt. 19.08.2019



Enclosed please find a copy of this office letter of even no. dt. 19.08.2019 wherein you were requested to obtain Succession Certificate from the Competent Court of Law for payment of Settlement dues of Lt. Ritesh Maity, Ex.CC/GIA expired on 20.02.2018, but till date you have not submitted the same want of which release of Settlement dues is not finalized.

You are requested once again to obtain succession certificate from the competent court of Law. The same is to be submitted to this office in original along with petition copy and court's order of the Ld. Court issued at the time of Succession Certificate.

DA: As stated above

-Sd-

For Sr. Divl. Personnel Officer
E.Rly./Sealdah

4. Ld. Counsel for the applicant would vociferously oppose the orders on the ground that the DRM, Eastern Railway had approached the appropriate authority to issue a legal heir certificate in regard to the deceased employee, which has been issued in favour of Jhuma Maity leaving no iota of doubt about her status as 1st wife. Therefore, Suparna Maity has no right to the settlement dues. The certificate is extracted hereunder for clarity:


 Government of West Bengal
 Office of the Collector, South 24-Parganas
 Revenue Munshikhama Section
 New Treasury Building, 7th Floor,
 Alipore, Kolkata-700027.
 E-mail: rms24pgs@gmail.com
 (An ISO 9001:2008 Certified Organization)

DATE: 9/3/18 / 2018

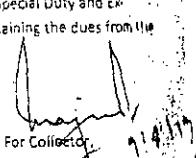
No. RM / 704

Sub-Legal Heirship Certificate in respect of Late Ritesh Maity.
 Ref.- Memo No./application No-Pen/SDAH/E-13, Dated-03.08.2018.

On verification of supporting documents of Divisional Railway Manager E.Rly., Sealdah, Kolkata and on the basis of enquiry report by the Addl.Dy Controller, Civil Defence, South 24-Parganas, vide memo NO-75/CD-ALP dated 31.01.2019. The following member(s) is/are found to be the heir(s) of Late Ritesh Maity who was in service of the Government of West Bengal/India/Undertakings.

Sl No	Name of the Heir(s)	Address	Age/Date of birth	Relationship with the deceased	Occupation/Marital Status	Additional Information
1.	Suparna Maity	3D, Ganesh Banerjeelane, Dhakuria Kali-33	70 Y	Mother	Pension holder / Widow	Married with 1 child
2.	Jhuma Maity	Do	06.12.1950	1 st Wife	House wife / Widow	Married
3.	Ritesh Maity	Do	02.01.1993	Son	Unemployed / Unmarried	Married
4.	Suparna Maity	7/1, Third Street, Modern Park, Sealdah, Kali-33	10.01.1968	2 nd Wife	House wife / Widow	Married

This certificate is issued on the strength of Memo NO. 972(20)-FII/A/SC/244/04 DATED 25.04.2005 by the officer on Special Duty and Extra Officer Dy. Secretary, Home(Foreigners & N.R.I'S) Department, Government of West Bengal and for the purpose of obtaining the dues from the concerned authority.


 For Collector,
 South 24-Parganas, Alipore.

5. Per contra, Ld. Counsel for respondents would place the family declaration made by the employee on 23.05.2015 for PASS which substantiates the claim of Suparna Maity. It is reproduced herein below for clarity:

MASTER MASTERY				
FAMILY DECLARATION FOR PASS OR P.T.O. FOR THE YEAR 2014				
NAME		DESIGNATION		
Rakesh Mal		Ex Com Garia		
13470		DATE OF BIRTH	1/1/67	
S.P.B.		DATE OF APPOINTMENT		
Rakesh Mal		NAME OF SPOUSE	OCCUPATION	MAKING
Sonima Mal		FATHER/HUSBAND	Wife	W.M.
Rakesh Mal		8/9/1983	09/07/95	W.M.
<p>My father is not alive. My two brothers/sister/daughter has income Rs. 0/- and is fully dependent on me for her livelihood.</p>				
SIGNATURE OF SUBORDINATE		SIGNATURE OF DECLARANT		
 Rakesh Mal Booking Supervisor, E.Rly		 Sonima Mal Booking Supervisor, E.Rly		
05-9-18 बुकिंग सुपरवाइजर गारिया स्टेशन, ए. रेलवे Booking Supervisor Garia Sin., E.Rly.				

The respondents have averred as under :

Late Ritesh Maity was an employee of this Railway in Commercial Department posted at Garia as Commercial Clerk, who died in harness on 20.02.2018 while in service. The settlement dues of the ex-employee was claimed by the 03 wives namely, (1) Smt Suprana Maity, (2) Smt Amrita Maity and (3) Smt Jhuma Maity (Railway documents show that other family composition not matching with the claim made in the Medical Card as annexed under Annexure-1 of the petition. Family composition as made in Pass/PTO declaration is enclosed as Annexure-R1). Being a disputed case, all the interested parties in this case were asked for to produce Succession Certificate from the competent Court of Law.

6. Ld. Counsel for the applicant would cite the decision in *Rameshwari Devi Vs State Of Bihar and Others*, (2000) 2 SCC 431, where the Hon'ble Apex Court has held as under :

"Appellant is aggrieved by judgment dated April 23, 1998 of the Division Bench of the Patna High Court passed in Letters Patent Appeal affirming the judgment of the learned single Judge dated April 26, 1996.

Dispute concerns to payment of family pension and death-cum- retirement gratuity to two wives of Narain Lal, who died in 1987 while posted as Managing Director, Rural Development Authority of the State of Bihar. Appellant is the first wife. Narain Lal is stated to have married second time with Yogmaya Devi on April 10, 1963 while the appellant was still alive. From the first marriage he had one son and from the second marriage four sons born in 1964, 1971, 1972 and 1976. Learned single Judge in his judgment held that children born to Narain Lal from the wedlock with Yogmaya Devi were entitled to share the family pension and death-cum- retirement gratuity and further that family pension would be admissible to the minor children only till they attained majority. He also held that the second wife Yogmaya Devi was not entitled to anything. Appeal by the first wife Rameshwari Devi against the judgment was dismissed by the Division Bench. According to her there was no marriage between Narain Lal and Yogmaya Devi and the children were, therefore, not legitimate. Aggrieved Rameshwari Devi has come to this Court.

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After the death of Narain Lal, inquiry was made by the State Government as to which of the wives of Narain Lal was his legal wife. This was on the basis of claims filed by Rameshwari Devi. Inquiry was quite detailed one and there are in fact two witnesses examined during the course of inquiry being (1) Sant Prasad Sharma, teacher, DAV High School, Danapur and (2) Sri Basukinath Sharma, Shahpur Maner who testified to the marriage between Yogmaya Devi and Narain Lal having witnessed the same. That both Narain Lal and Yogmaya Devi were living as husband and wife and four sons were born to Yogmaya Devi from this wedlock has also been testified during the course of inquiry by Chandra Shekhar Singh, Rtd. District Judge, Bhagalpur, Smt. (Dr.) Arun Prasad, Sheohar, Smt. S.N. Sinha, w/o Sri S.N. Sinha, ADM and others. Other documentary evidence were also collected which showed Yogmaya Devi and Narain Lal were living as husband and wife. Further, the sons of the marriage between Yogmaya Devi and Narain Lal were shown in records as sons of Narain Lal.

Having considered all the facts of the case as presented before us we do not find any error in the impugned judgment of the Division Bench of the Patna High Court upholding the judgment of the learned single Judge referred to in the beginning of this judgment. The appeal, therefore, fails and is dismissed. However, there shall be no order as to costs."

Ld. Counsel would submit that Jhuma Maity is in such a precarious condition that she is unable to obtain a succession certificate.

7. Having noted the judgment cited by the Ld. Counsel for the applicant as well as the mention of Rittik Maity, as son of Ritesh Maity, in both the documents as reproduced supra, which leaves no room to doubt his status as son, I would direct the authorities to immediately release the share of Rittik Maity in the settlement dues of the late employee and either release the balance in favour of Jhuma Maity, the 1st wife of the deceased, on the basis of Legal Certificate referred to supra, or after production of Succession Certificate by all the widows.

8. O.A. accordingly stands disposed. No costs.

(Bidisha Banerjee)
Member(J)

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