

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
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No.O A.350/1170/2019

Date of order : 8.4.21

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

TRIPTI MITRA, Wife of Late Dipak Mitra,
aged about 54 years, occupation-Housewife,
residing at Village-Barasat Bni Kontha,
Post Office-Kazipara, District-24 Parganas(North),
Kolkata-700125, West Bengal

.....Applicant

VERSUS

1. The Union of India, through the General Manager,
Eastern Railway, Fairlie Place Kolkata-700001;
2. The Senior Divisional Personnel Officer, Eastern Railway,
Sealdah, Kolkata-700 014

.....Respondents

For the applicant

Mr. A. Chakraborty, counsel
Ms. P. Mondal, counsel

For the respondents

Mr. D. Nandi, counsel

ORDER

This matter is taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved and with the consent of both sides.

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

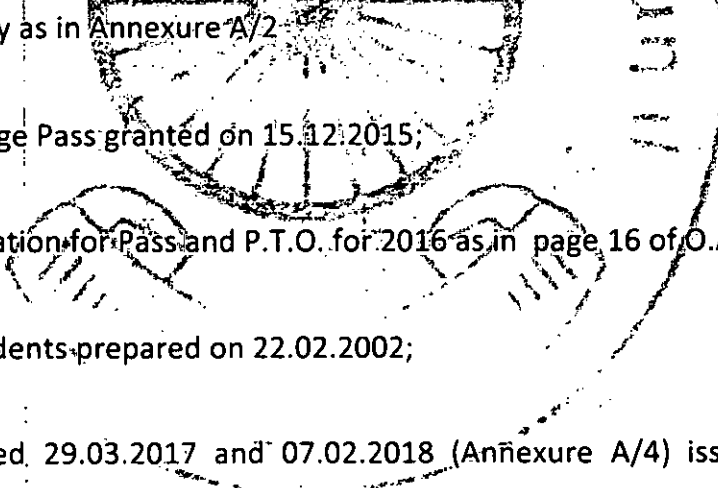
"An order do issue directing the respondents to release family pension and other pensionary benefits in favour of the applicant at an early date and also to grant arrears with interest as admissible under the Rules."

3. The brief facts noted are as under:-

The applicant married one Dipak Mitra and Marriage Certificate was issued to that effect. After demise of said Dipak Mitra, she preferred a representation for grant of family pension. She was requested by the authority concerned to produce testimonials such as missing diary or death certificate of the first husband. The family declaration for pass and PTO is available where husband of the applicant had recorded the name of the applicant as his wife.

The applicant is aggrieved as her claim to family pension has not been settled since 2016.

4. At hearing, Ld. counsel for the applicant would place the following documents which confirms her status as wife/dependant and legal heir of the deceased:-

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- (i) Details of family as in Annexure A/2;
 - (ii) Railway Privilege Pass granted on 15.12.2015;
 - (iii) Family Declaration for Pass and P.T.O. for 2016 as in page 16 of O.A.;
 - (iv) List of dependents prepared on 22.02.2002;
 - (v) Letters dated 29.03.2017 and 07.02.2018 (Annexure A/4) issued by Sr. Divisional Personnel Officer/Sealdah to the District Magistrate, North 24 Parganas requesting issuance of Legal Heirship Certificate of Late. Dipak Mitra, Ex.Railway employee/Sealdah Division, wherein it was mentioned that, a complaint was received from one Sri Kalyan Mitra, said to be brother of Late Dipak Mitra that Smt. Tripti Mitra was legally married to a person other than Late Dipak Mitra and on the basis of such complaint, the matter was referred to the

D.M vide office letter dated 29.03.2017 to provide family details of Lt. Dipak Mitra wherefrom a report dated 14.11.2017 was also received.

(vi) Family composition of employee was declared by Block Development Officer on 04.08.2017 (Page 21 of O.A.) which is as under:-

Name of legal heir and his/her present residential address, relationship with the deceased person	Date of birth & age	Married or Unmarried	Whether dependent	Occupation
3	4	5	6	7
Tripti Mitra Baikantha Nagar, B-Block, P.O.+P.S.-Barasat, North 24 Parganas Wife	01.01.19 65.51 years	Widow	YES	Housewife
Jyotsna Mitra Baikantha Nagar, B-Block, P.O.+P.S.-Barasat, North 24 Parganas Daughter	31.03.19 82.35 years	Married	YES	Housewife

(vii) Communication from Sub-Divisional Officer, Barasat Sadar, North 24 Parganas dated 16.08.2018 that confirms as under:-

"With reference to above, this is to inform you that earlier a communication was made vide our memo No.954/Con(S) dated 09.11.2017 stating that Smt. Tripti Mitra, wife and Smt. Jyotsna Mitra daughter are legal heirs of Late Dipak Mitra."

(ix) Certificate dated 05.05.2016 from Chairman, Barasat Municipality, Office of the Municipal Councillors of Barasat, that, "Late Dipak Mitra, S/o Late Kanailal Mitra resident of Ramkrishnapur, P.O. Barasat, P.S. Barasat, Dist. North 24 Parganas, Ward No.13 under this municipality has died on 11/04/2016 leaving behind the following legal heirs.

Sl.No.	Name of the Legal Heirs	Relation with the deceased person	Age	Signature
1.	Jyotsna Mitra(Ekka)	Daughter	35	Signed
2.	Tripti Mitra	Wife	51	Signed

(x) Certificate of Marriage dated 04.02.1994 (page 45, Annexure A/4).

5. The respondents on the other hand have banked upon Enquiry Report of the Welfare Inspector dated 17.06.2016 which reads as under:-

Note

Scaldah, dated 17.06.2016

Sub: - Enquiry report on death of Late Dipak Mitra, Ex. O.S under SSE/Sig/S-I/SDAH expired on 11.04.2016, while in service.

The subject case was enquired into by the undersigned by conducting local enquiry at Barasat Banikantha Nagar, 'B'-Block, P.O. & P.S. - Barasat, Dist. 24 PGS (North), Kolkata - 124 and it is reported that one Dipak Mitra, Ex. O.S under SSE/Sig/S-I/SDAH expired on 11.04.2016, while in service. As per Certificate issued by Chairman, Barasat Municipality, Family Declaration, Medical Card and Local enquiry and Affidavit submitted by the widow of Late Dipak Mitra it is found that the above deceased Railway employee had left behind the following family members as his legal heirs: -

Sl. No.	Name	Relationship	Occupation
1	Smt. Tripti Mitra	Wife	House wife
2	Smt. Jyotsna Mitra (Ekka)	Married Daughter	House wife

Based on appeal, duly forwarded by SSE/Sig/S-I/SDAH and considering all circumstantial and available following documentary evidences the under signed given all assistance to the above family members of the ex-employee in filling up G-114 and all others Settlement forms.

- 1) Photo copy of Medical Card - P/38
- 2) Photo copy of Ration Card of Smt. Jyotsna Mitra (Ekka) - P/32
- 3) Photo copy of Family declaration - P/34
- 4) Photo copy of Voter Card - P/59 & 60
- 5) Chairman Barasat Municipality's certificate - P/54 & 55
- 6) Neighbour's statement - P/81
- 7) Aadhar Card of Smt. Tripti Mitra - P/57
- 8) Bank's Mandate - P/1 - 4
- 9) Death Certificate of Late Dipak Mitra - P/68 to 78
- 10) Death Notification of Late Dipak Mitra - P/77
- 11) Land Deed - P/39 to 50
- 12) Photo of Widow - P/82

However it is learnt from some local people that Smt. Tripti Mitra was married earlier with some Nemai Bhowmick. A female ward was born out of their wedlock. After that she was driven out from the house of Nemai Bhowmick along with her female child. Then said Nemai Bhowmick married again with another woman and living elsewhere.

Soon after, destitute homeless Smt. Tripti Mitra got married with above Dipak Mitra & started living together as husband & wife. They also registered their marriage as per Hindu marriage act. The marriage was solemnised as per Hindu custom. They enjoyed all official facilities like Medical facility, Pass etc. Their conjugal life stayed up to the premature death of above Dipak Mitra.

This annexures
of the original documents

BS

Hence the file of papers containing 82 pages including above mentioned documents & settlement forms containing pages are being sent herewith for n/a please.

Submitted please.

S.B. Bachar
12/6/2018
(S. B. Bachar)
S&W/SDAH

The said report does not mention the fact that the said Nimai Bhowmick, the earlier husband of Tripti Mitra went missing within one year of their marriage i.e. on 15.06.1974. Tripti Mitra married Dipak Mitra on 26.04.1980 which was registered later on i.e. on 04.02.1994. It ignored the report of the Sub Divisional Officer dated 16.08.2018 which reads as under:-

".....In response to the further queries made by Railway authority on the

- a) marital status/family status of Smt. Tripti Mitra before marriage with Late Dipak Mitra.
- b) Date of birth of Smt. Jyotsna Mitra daughter of the deceased.

After thorough examination of all the documents on marriage of Smt. Tripti Mitra and affidavit submitted by Smt. Tripti Mitra and after conducting a local enquiry, it reveals that:

- 1) Smt. Tripti Mitra daughter of Late Hriday Nath Sur was married to Dipak Mitra son of Late Kanai Lal Mitra on 26.04.1980. At the time of marriage with Dipak Mitra, she was widow and name was Smt. Tripti Bhowmick as it is evident from the "Notice of Intended Marriage" issued on 02.12.1993 and marriage registration certificate.

It transpires from Affidavit filed by Smt. Tripti Mitra and local enquiry that before marriage with Dipak Mitra as widow Smt. Tripti Mitra was married to one Nemai Bhowmick on 15.06.1974. The second marriage took place only after her former husband was found to be missing within one year of her marriage and hearing a news of death of her husband.

The marriage with Dipak Mitra was solemnised on 26.04.1980 according to Hindu rites and customs but same was registered on 04.02.1994 before the Marriage Register, Mrs. Anita Bagchi, Calcutta for the official purpose of her husband, Dipak Mitra.

In notice of Intended Marriage, it has been shown that their dwelling place was same and they both had been living for 10 years together at Madhyamgram(North), Bires Pally, North 24-Parganas.

- 2) It reveals from documents i.e. Madhyamik Pass Certificate and affidavit that out of their wedlock, a female baby was born on 31.03.1982 namely Smt. Jyotsna Mitra.

Local residents also confirm the fact.

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It is observed that before death of Dipak Mitra on 11.04.2016, he filed a family declaration on 25.01.2016 duly attested by Railway authority proposing Smt. Tripti Mitra and Jyotsna Mitra as wife and daughter.

Also examination of documents provided by Railway Authority and dependent family members, it is clear that they have availed themselves of various benefits from Eastern Railway as wife and daughter.

From the above it is concluded that wife Smt. Tripti Mitra and daughter Smt. Jyotsna Mitra are only the legal heirs of Late Dipak Mitra and date of birth of Smt. Jyotsna Mitra is 31.03.1982.

This is for your kind information and taking necessary action, please.

Enclosures

1. Marriage Certificate.
2. Notice of Intended Marriage.
3. Legal heirs certificate.
4. Affidavit filed by Smt. Tripti Mitra.
5. Madhyamik Pass Certificate of Smt. Jyotsna Mitra

Yours faithfully,

Sub-divisional Officer, Barasat(Sadar)
North 24 Parganas

6. The respondents have disputed the marital status on the basis of a complaint which was received from one Sri Kalyan Mitra, said to be brother of Late Dipak Mitra that Smt. Tripti Mitra was legally married to a person other than Late Dipak Mitra and on the basis of such complaint, the matter was referred to the D.M vide office letter dated 29.03.2017 to provide family details of Late Dipak Mitra wherefrom a report dated 14.11.2017 was also received.


As evident from a letter dated 15.09.2017, Sri Kalyan Mitra, brother of Lt. Dipak Mitra, called in at the office of the Block Development Officer, Barasat II Development Block, North 24 Parganas. He appeared before the authority on 15.09.2017 but failed to produce any proper document.

7. In view of the fact that there is no dispute about legal status of the applicant as widow of the deceased, as evident from the reports enumerated supra, the respondents are directed to release all admissible dues with accrued

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arrears in accordance with law, within 2 months from the date of receipt of a copy of this order.

8. The O.A. stands disposed of. No costs.


(Bidisha Banerjee)
Judicial Member

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