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Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 819 of 1988

Km. Prem Lata Applicant.

Versus

Union of India & another Respondents.

Hon'ble K.J. Raman, A.M.
Hon'ble J.P. Sharma, J.P.

(By Hon. J.P. Sharma, J.M.)

The applicant moved this application under Section 19 of the Administrative Tribunals Act, 1985 for the relief that she is unmarried daughter, aged about 27 years, of the deceased employee, Baboo Lal, who worked as a Loco Driver till the age of superannuation, which is 30.6.1977, but died on 9.4.1983. The parties have exchanged their pleadings, so the case has been heard finally at the admission stage.

2. The undisputed facts are that one Sri Baboo Lal worked as Loco Driver till the date of his superannuation and he left behind on his death one son, viz. Bihari Lal, and two daughters, viz. one Purnia and the other the present applicant, Km. Prem Lata. This is the Prem Lata, who has come before this Tribunal claiming herself as an unmarried daughter and for a declaration that the applicant is entitled to receive pensionary benefits after the death of her father, Baboo Lal, with arrears and the order dated 17.6.1985 be quashed.

3. The respondents contested the application and inter alia contended that the applicant is a married daughter of the deceased employee, Baboo Lal, and according to Rules, being a married daughter, she was not entitled to any family pension. However, her representation was also rejected on the ground that she has crossed the age of 24 years. It is not disputed to the learned counsel for the respondents that the family pension has now been increased upto 30 years to dependant sons or daughters, as the case may be.

4. We have heard the learned counsel for the parties at length. The learned counsel for the applicant referred to an application given to the District Magistrate after the rejection of the representation by the impugned order of 1985, for granting a certificate that she is the unmarried daughter of deceased Baboo Lal. It appears that some preliminary enquiry was done at the level of Tahsil Headquarters and later submitted to the District Magistrate which appears to have been forwarded to the DRM, Delhi. The genuineness and authenticity of this enquiry, according to the applicant, has not been challenged by the respondents any where. However, it was a matter between the applicant and the authorities and it can only constitute an evidence, but it has to be seen whether there is better evidence available to justify the stand of the respondents that the applicant is the married daughter of deceased Baboo Lal. In this case the learned counsel placed before this Bench the departmental file from which he has shown a declaration made on 18.8.1977 by the deceased Boboo Lal regarding his family and both the daughters, viz. Purnia and Prem Lata, as also the son, viz. Bihari Lal, are shown as married heirs of the deceased. This declaration is important and is best evidence under Section 32 of the Evidence Act. It is admissible also as a statement by a person, who is now dead. In view of this the report of the Tahsildar level forwarded to the DRM, Delhi has no value.

5. Another point, which is for consideration, is, as per the learned counsel for the applicant, there is a voter list on record of 1987. But the entry in the voter list is not, by itself, an indication whether the person entered at Sl.No.811 is the same lady and secondly, whether she is married or unmarried. Merely describing a lady by her father's name does not mean that such a lady is an unmarried one.

6. It has been further contended that as per Child Marriage Act, the applicant could not have been married in 1977, but it is

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not so. The declaration of the deceased employee, Baboo Lal, is of 18.8.1977 and the date of birth shown in that declaration is 15.3.1959 and any calculation will show that the applicant was short of one month from $18\frac{1}{2}$ years.

7. The learned counsel for the respondents also pointed out to Annexure '2' to the counter affidavit where the applicant has herself given out in August, 1977 that no family pension is due to her.

8. Having given a careful consideration and hearing the learned counsel for the parties at length, we are of the opinion that the applicant could not successfully substantiate that she is unmarried daughter of the deceased employee, Baboo Lal, and it is proved beyond doubt that she is a married daughter and according to Rules, she is not entitled to family pension.

9. We, therefore, find that the application is devoid of merit and is dismissed leaving the parties to bear their own costs.

J. D. Narvekar
MEMBER (J). 29.8.90.

K. D. Narvekar
MEMBER (A).

Dated: August 29, 1990.

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