OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

DATED: THIS THE 2nd DAY OF SEPTEMBER 1997

Coram :- Hon'ble Dr. R. K. Saxena JM

Hon'ble Mr. D. S. Baweja AM

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ORIGINAL APPLICATION NO. 755/92

Smt. Kamla Dass wife of
Sri Edward Dass r/o 1B/3A/1, Chak Bhatahi
Naini, Allahabad- - - - - - - - - - - - - - Applicant

Sri Rakesh Verma

Versus

1. Union of India through
General Manager, Northern Railway
Baroda House, New Delhi.

2. The Divisional Railway Manager,
Northern Railway, Bikaner.

3. The Divisional Personnel Officer
(Settlement), Office of the
Divisional Rly. Manager,
Northern Railway, Bikaner.

C/R Shri Prashant Mathur. ..... Respondents.

O R D E R (ORAL)

By Hon'ble Dr. R.K. Saxena, Member (J)

The applicant Smt. Kamla Dass has filed this O.A. seeking direction in the nature of mandamus to the respondents no.2 and 3 to make payment of

Rs.67,755/- of the deceased Franklin John to the applicatn alongwith interest at the rate of 18% per annum.

2. The brief facts of the case are that the applicant is the sister of the deceased employee Franklin John who was serving under the respondents 2 and 3. The said Franklin John died on 20.11.1986 leaving behind the applicant as the only heir. Since the payment was not made to the applicant on her application by the respondents, she approached the Civil court, Delhi on the advice of the respondents themselves for obtaining Succession certificate. It is stated that the notice to all concerned was issued and published in the local paper on 22.9.1988 and ultimately the Sub-Judge of Delhi issued Succession certificate on 17th of May, 1989. This Succession certificate was made available to the Divisional Railway Manager, Bikaner vide letter dated 22.5.1989. It appears that certain enquiry was started on the directions of the Divisional Personnel Officer but no payment could be made. Hence this O.A. was filed seeking relief as mentioned hereinbefore.

3. The respondents contested the case by filing a short counter affidavit in which it has been averred that as soon as the Succession certificate was granted by the court in favour of the applicant, entire legitimate dues admissisible to the deceased employee ~~for~~ & Group Insurance Scheme and Gratuity amounting to Rs.21,044/- and Rs.32,400/- respectively were given to to the applicant. It was given in payment through cheque no.256184 on 27.5.1992. It was further averred that the amount of Provident Fund amounting ~~to rupees~~ Rs 14,911/- was also paid to the applicant through C.O.T. no.030623 dated 5.5.1992. It is, therefore, contended

that the relief claimed by the applicant with regard to the payment admissible to the applicant, has already been granted.

4. We have heard Shri Rakesh Verma, learned counsel for the applicant and Shri Prashant Mathur learned counsel for the respondents and have perused the records including the official file brought by Shri Prashant Mathur.

5. There is no dispute that the deceased employee Franklin John was an employee of the respondents no.2 and 3, and he had died on 20th November, 1986. It is also not in dispute that the amount of Provident Fund & ~~amount~~, gratuity and Group Insurance was due to be paid to the heairs of the deceased employee.

6. The contention of the applicant is that the deceased Franklin John died without leaving any Issue because he was unmarried. The contention of the respondents on the other hand is that the deceased employee Franklin John had disclosed Smt. Mohini Vira Michael and Victor John as wife and son and thus only those two persons were entitled to get the amount of settlement dues. It appears from the perusal of the original file relating to Franklin John that the dealing Assistant had written a note on 10.6.1987 that Welfare Labour Inspector be deputed to collect information because a letter was issued to the nominated persons ~~x~~ but that letter was received undelivered. It further appears that thereafter the applicant who approached the respondents, was directed to obtain the Succession certificate from the court. Shri Rakesh Verma ~~pointed out~~ filed the letter which was written by the respondents replying to the applicant's letter disclosing the various amounts which were due to the deceased Franklin John . On receiving the

said information, the applicant had instituted case in Delhi for obtaining Succession certificate. The contentions of the learned counsel for the respondents is that the persons who were nominated by the deceased employee Franklin John, were different and claim was made by the applicant and thus it was necessary to ascertain as to who really were those nominated persons. This argument has got relevance upto the stage when Succession certificate was not obtained by the applicant and was produced before the respondents. What appears from annexure no.1 dated 8.3.1990 is that the Divisional Personnel Officer was not satisfied even after the receipt of the Succession certificate and some enquiry in the matter was again started. This step on the part of the respondents does not stand to reason particularly when no doubt in the genuinness of the Succession certificate could be created; and thus no enquiry of those two persons who were nominated in the form by the deceased Franklin John, was necessary. The respondents, however, made payment to the present applicant but only after three years from the date of issue of the Succession certificate. The applicant, therefore, claims interest on the delayed payment.

7. We have given careful though to these facts and we find that the respondents could not show any justification for delayed payment of the money relating to Group Insurance, gratuity and Provident Fund of the deceased Franklin John. The past history of nomination of some other persons became irrelevant when the Succession certificate was issued in favour of the applicant, and that Succession certificate was not doubted to be fake or ficticious. The respondents ultimately, after about 3 years, made the payment to the applicant without explaining the reasons of delay.

The responsibility of making delayed payment is required to be ascertained by the department and whatever amount of interest may be calculated, should be recovered from the pay of the Officer(s) of Official(s) who was or were responsible in getting the payment delayed.

8. On the consideration of these facts and circumstacnes, we direct that the applicant should be given interest at the rate of 10 percent per annum from the date when the Succession certificate was presented to the respondents and the requisite form for payment was obtained by the respondents. This interest shall be paid within a period of four months from the date of communication of this order. O. A. is disposed of accordingly. No order as to costs.

Member (A) Member (J)

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