

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO. 1030 OF 2002

ALLAHABAD THIS THE 23RD DAY OF SEPTEMBER, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Dilip Kumar Minor  
aged about 12 years,  
son of Late Sunder Lal,  
resident of C/o Gurdeep Singh son of Mohal Lal  
resident of 16 Rewa Building Leader Road,  
Allahabad. Guardian.

. . . . . Applicant

( By Advocate Shri P.K. Kashyap )

Versus

1. Union of India,  
through General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. Divisional Railway Manager (P),  
Northern Railway, Allahabad.
3. Chief Medical Officer,  
Northern Railway, Mandal,  
Hospital, Allahabad.
4. Smt. Geeta Devi Alleged 4th wife  
late Sunder Lal resident of village Kusummar  
P.S. Tharwai District-Allahabad.

. . . . . Respondents

( By Advocate Shri H.A. Kumar )



ORDER


None for the applicant even in the revised call. Shri H.A. Kumar, counsel for the respondents is present. It is seen, that on 04.08.2004, 13.07.2004, 03.06.2004 and 29.04.2004 also, none had appeared for the applicant. It is submitted by the counsel for the respondents that he has informed Shri P.K. Kashyap, counsel for the applicant in writing by his letter that the case is listed for final hearing on 18.08.2004 which was duly received by Shri R.P. Kashyap on 10.08.2004. Copy of the letter is taken on record. In spite of it, he is not present in the court today, therefore, only one inference can be drawn that he is no longer interested in prosecuting the case. Accordingly, I could have dismissed the case for default but since this is a case where settlement dues are directed not to be disbursed in favour of respondent no.4, I think it would be better if this case is decided on merits.

2. The brief facts as submitted by the applicant are, that applicant was born on 10.03.1989. His mother's name was Smt. Saroj Devi who died on 23.11.1995, but since he was the son of deceased employee Late Sunder Lal, therefore, he had initially filed O.A. No.153/02 through one Shri Radhey Shyam seeking direction to the respondents to provide Pension, Gratuity, Provident Fund and other retiral benefits to the applicant being the only son of Late Shri Sunder Lal. The said O.A. was disposed off on 15.02.2002 by directing respondent no.2 i.e. Divisional

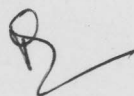


Railway Manager, (Personnel), Northern Railway, Allahabad to consider the representation of applicant and to determine the amount which is payable to applicant as heir and legal representative of late Sunder Lal. The Divisional Railway Manager was further directed that after determining the amount payable, the same shall be deposited in an interest saving account of a scheduled Bank for the period until the applicant attains majority, which <sup>he shall be</sup> ~~has been~~ payable to the applicant after he attains majority and during this period he shall be maintained from the amount which is received as interest. The DRM was directed to nominate the person who shall be paid the amount of interest for maintenance of the minor child. The order of DRM was said to be the subject <sup>to</sup> ~~of~~ any order passed by Civil Court (Page 12).

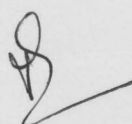
3. The respondents passed a detailed order on 19.08.2002 wherein it was held that after investigation and facts on record, <sup>in</sup> ~~revealed~~ <sup>also</sup> that besides applicant, ~~there~~ are other family members of Late Sunder Lal who are entitled to get their share under the rules. Accordingly, it was stated that the children of Smt Saroj Devi, <sup>and their children</sup> third wife of Late Sunder Lal/i.e. Kumari Anita (deceased) and Shri Dilip Kumar would be entitled to 1/2 share in the family pension and  $\frac{1}{4}$  share out of PF, GIS, DCRG and no share in the leave encashment while Smt. Geeta Devi, 4th wife of Late Sunder Lal and their children Km. Pooja and Shri Pradeep would be entitled to <sup>share</sup>  $\frac{1}{2}$  of the family pension plus  $\frac{3}{4}$  share of PF, GIS, DCRG and full share of leave



encashment. It was further clarified that so long applicant is minor his share of settlement dues shall be payable to him through legal guardian appointed by the competent Civil Court. Applicant was, therefore, directed to approach competent court for appointment of a person as a legal guardian, in whose custody and <sup>care</sup> applicant was living. He was further directed to submit enclosed Settlement Form through Legal Guardian appointed by the Hon'ble Court to enable him to take further action. (Page 8). It is this order which has been challenged by the applicant on the ground that respondent no.4, is not the legally wedded wife of applicant's father and she has been declared to be the legal wedded wife of deceased employee without obtaining any succession certificate in his favour from the competent court of law, therefore, the impugned order is bad in law in as much as  $\frac{1}{2}$  share of family pension has been determined in favour of her and  $\frac{3}{4}$  out of PF, GIS, DCRG and full amount of Leave Encashment. Therefore, applicant who is still a minor has filed the present petition by one Shri Gurdeep Singh as his guardian. He has submitted that since his father was never married to respondent no.4, therefore, she is not entitled to get anything from the settlement dues of his father. He has thus, prayed that writ of certiorari ~~be~~ issued to quash the order dated 19.08.2002 and respondents be directed to pass a fresh order after giving an opportunity of hearing to the petitioner or a direction be given to the respondents to direct the petitioner as well as respondent no.4 to get their claim decided by the Civil Court.



4. Respondents on the other hand have submitted, that on investigation it reveals that Smt. Geeta Devi, IVth wife of Late Sunder Lal has also claimed for payment of settlement dues. The claim of Smt. Geeta Devi was witnessed and identified by the Chief Medical Supdt/NR/ALD, the controlling officer of the applicant's father late Sunder Lal. A copy of claim for settlement dues, payment of Smt. Geeta Devi alongwith marriage agreement deed dated 9.2.1998 are filed as Annexure -1. They have further submitted that neither the applicant Shri Dilip Kumar nor Smt. Geeta Devi had been asked to produce any succession certificate/legal heir certificate in regard to ~~their~~ genuineness of their identity and claim from Civil Court. Their claims ~~have been~~ <sup>were R</sup> admitted on the basis of identity of family members of late Sunder Lal duly identified and attested by the Chief Medical Supdt.N. Rly ALD., but now that applicant has opposed the claim of Smt. Geeta Devi IVth wife of late Sunder Lal, the dispute of legal heir and legal successor for settlement dues ~~in~~ payments in respect of late Sunder Lal is to be decided and settled by Civil Court. They have further submitted that payments have not yet been released in favour of Smt. Geeta Devi and will not be released in ~~view~~ <sup>future R</sup> also, till further orders of the court. They have thus, submitted that, in view of the facts, as explained above, this petition is liable to be dismissed. This counter affidavit was served on the counsel for the applicant on 26.11.2002 but till date he ~~has~~ not bothered to file any rejoinder affidavit.



5. Perusal of the ordersheet shows that on 12.11.2002 the order dated 19.08.2002 was stayed by this Tribunal and respondents were directed not to disburse the settlement dues till the next date and the said interim order has been continued from date to date.

6. Since the controversy raised in this case by the applicant is that, respondent no.4 is not the legally wedded wife of Late Sunder Lal and applicant himself has also been filing ~~xxx~~ O.A. through different persons as earlier it was filed through one Shri Radhey Shyam and now he has filed through one Shri Gurdeep Singh, even his own claim seems to be doubtful. From the perusal of documents which have been annexed by the respondents, even Smt. Geeta Devi had also not filed any authentic proof of her marriage with Late Sunder Lal, therefore, in these circumstances, it would be better if both ~~the~~ Smt. Geeta Devi as well as applicant are directed to bring the succession certificate from the competent court of law by impleading each other as a party and only if they bring a succession certificate <sup>issued</sup> ~~produced~~ by the court, only then the settlement dues <sup>shall B</sup> ~~be~~ be disbursed by the respondents, otherwise, no settlement dues shall be given to either the applicant or Smt. Geeta Devi. Respondents shall intimate the applicant as well as Smt. Geeta Devi, both about the further action to be taken by them in accordance with this order within a period of two months from the date of receipt of a copy of this order.

7. With the above direction, this O.A. is disposed off with no order as to costs.