

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 604 OF 2003

THURSDAY, THIS THE 29TH DAY OF MAY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Smt. Elvina James, aged about 57 years,
wife of Shri Raju James,
r/o 15-A, Strachey Road, Civil Lines,
Allahabad.

....Applicant

(By Advocate : Shri Rakesh Verma)

V E R S U S

1. Union of India through General Manager,
North Central Railway,
Allahabad.
2. The Divisional Railway Manager,
North Central Railway,
Allahabad.
3. Shri Raju James,
s/o Late B.R. James,
Presently working as Train Lighting Fitter,
Gr. I, Residing at Railway Colony,
Malodam, Leader Road,
Allahabad.

....Respondents

(By Advocate : Shri A. K. Gaur)

O R D E R

By this O.A. Smt. Elvina James has claimed the
following reliefs:-

- "(i) to issue a writ, order or direction in the nature of Mandamus directing the respondent No.2 not to make any payment towards terminal benefits including pension and pensionary benefits such as PF, gratuity, leave encashment, pension and commuted value of pension till the maintenance claim of the petitioner under section 125(1) CRPC is decided (Case No. 123/2003) Smt. Elvina James Vs. Shri Raju James and another by the competent court of law i.e. the court of Judges Family Court, Allahabad.
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- (ii) to issue any other suitable writ order or direction in the facts and circumstances of the case which this Hon'ble Tribunal may deem fit and proper.
- (iii) to award cost of the petition."


2. It is submitted by the applicant that she is the legally wedded wife of Shri Raju James who is presently working as Train Lighting Fitter Gr. I and residing at Railway Colony Malgodam, Leader Road, Allahabad. Her husband has illicit ^{relation} / with another lady namely Sheela daughter of Shri Banshi Lal about 16 years back and it was since then that the applicant was being living with the respondent No.3. As respondent No.3 was not maintaining the applicant, she had to file case No.123/2003 under section 125(1) of CRPC against respondent No.3 for claiming the maintenance, which is still pending. Apprehension of the applicant is that respondent No.3 is due to retire on retaining the age of superannuation on 31.05.2003 and if he has paid all the retiral benefits she would be without any remedy as nothing would be paid to her by respondent No.3. Therefore, she gave a representation to the D.R.M. on 31.03.2003 followed by 04.04.2003 requesting him not to clear the settlement dues of respondent No.3 till the disposal of the maintenance case filed by her (Annexure A-3 and A-4) but office of D.R.M. has informed her ^{that} / the settlement dues shall be paid to respondent No.3, therefore, finding no other option she had to file the present O.A.

3. I have heard the applicant's counsel and perused the pleadings as well.



4. Grievance of the applicant in this case is purely of civil nature as she is having strained relations with her husband. If the husband is not maintaining his wife, remedy is open to her to claim maintenance from Civil Court for which she has already filed a case under section 125(1) of Cr.P.C. Once the application is filed definitely, orders will be passed by the court on the basis of evidence ^{filed} ~~led~~ before it and whatever orders are passed she can always execute the same in accordance with law. Since we are dealing with the matters relating to service, it cannot be said to be a service matter nor can any relief, as prayed by the applicant, be given by this Tribunal as any person who is working with the Government is entitled to get the retiral benefits on his retirement.

5. It is submitted by the applicant's counsel that applicant is the nominee, therefore, she would be entitled to amounts which are due to the respondent No.3 after his retirement but I am afraid that there is no substance in the said ^{argument} ~~advancement~~ because question of giving the amount to the nominee would arise only after the employee dies. So long he is alive it is his right to receive the retiral benefits. Therefore, no relief as prayed by the applicant can be given in the present D.A. Since this D.A. is misconceived, the same is dismissed at the admission stage itself with no order as to costs. However, it will be open to the applicant to seek redressal of her grievance from appropriate forum.


MEMBER (J)