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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 936 OF 2006

ALLAHABAD THIS THE 26TH DAY OF JULY 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

Smt. Manjharika Devi aged about 74 years, (widow of late Ram Dayal ex Abhileshpal, Personnel Branch, N.E. Railway, D.R.M's Office, Varanasi) r/o Village Rampur, P.O. Mubarakpur, District Ghazipur.

.....Applicant

(By Advocate: Sri Sudama Ram)

VERSUS.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, D.R.M's Office, Varanasi.
3. Sr.Divisional Personnel Officer, North Eastern Railway, D.R.M's Office, Varanasi.

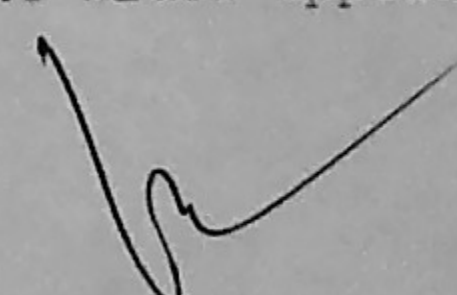
.....Respondents

(By Advocate: Sri Durga Prasad Singh)

O R D E R

Shri Sudama Ram, learned counsel for the applicant and Shri Durga Prasad Singh appears for the respondents.

2. The applicant (Smt. Manjharika Devi) claiming herself to be the widow of late Shri Ram Dayal, ex Abhileshpal, Personnel Branch, Office of, D.R.M's N.E. Railway, Varanasi has prayed for following relief(s):-

- "(i) The Hon'ble Tribunal may graciously be pleased to quash the impugned order dated 26.7.2006 (Annexure A-1) and direct the respondents to grant family pension to the widow applicant
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with its arrears and 12% compound interest on delayed payment of family pension and other withheld payments i.e. D.C.R.G and Provident Fund.

(ii) Any other writ or order or direction which this Hon'ble Tribunal deems fit and proper in the circumstances of the case may also kindly be issued in the interest of justice.

(iii) Cost of the application may also be awarded".

3. Applicant says that she is widow of late Shri Ram Dayal, who was in service of respondents and who died on 6.2.1999. It is said that as per the instructions of respondents, succession certificate was obtained from the Civil Court and the same was filed, so as to receive the terminal dues, such as G.P.F. amount of gratuity and family pension. She alleges that though respondents have released 1/7 shares in the amount of leave encashment but have not released the amount of gratuity, Provident Fund and family pension.

4. The respondents filed reply, saying that since the name of Smt. Manjharia Devi as widow of late Shri Ram Dayal, is not found in service record of late Shri Ram Dayal, so it is difficult to say that she is widow of late Ram Dayal. It has also been said that she is not legally wedded wife of late Shri Ram Dayal, so she is not entitled to the share in terminal benefits or to the family pension.

5. This much is not in dispute that applicant is mentioned as widow of late Shri Ram Dayal, in the succession certificate, issued by Civil Judge (Senior Division) Ghazipur. This certificate is Annexure A-3. Shri Durga Prasad Singh admits that 1/7 part of amount of leave encashment has also been paid to the applicant. He has not been able to satisfy as to how that part of amount was paid to the applicant. if she was not widow

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of late Shri Ram Dayal. It is never the contention of the respondents that the succession certificate (Annexure A-3) in favour of the applicant as widow of late Shri Ram Dayal and in favour of others, is under challenge anywhere or is not final. If this succession certificate holds the field and in absence of anything else, must hold the field, the applicant being the widow of late Shri Ram Dayal is entitled to 1/7 share in the amounts mentioned in this certificate. Shri S. Ram was not able to justify as to how in view of this succession certificate, the applicant would be entitled to receive more than 1/7 in the amounts so mentioned in the succession certificate. There appears no difficulty in directing the respondents to pay her share in those amounts if the same has not been paid so far.

6. The plea of the respondents that the applicant is not legally wedded wife of late Shri Ram Dayal, appears to be devoid of merits, because Civil Court has issued a succession certificate in her favour as widow of late Shri Ram Dayal. Moreover, it is never the contention of the respondents that sons of late Shri Ram Dayal have filed any action in any Competent Court, for challenging the status of the applicant as widow of late Shri Ram Dayal. Simply because the name of the applicant, as widow of late Shri Ram Dayal does not appear in the relevant service record, it will not be sufficient enough to challenge her status, more so when, she has been paid 1/7 part of encashment amount, as widow of late Shri Ram Dayal. It is for all these reasons, I have said that plea that applicant is not widow of late Shri Ram Dayal appears to be devoid of merits.

7. In so far as the family pension is concerned, being widow of late Shri Ram Dayal, she is ~~not~~ entitled to the same. The rest of persons said to be sons of late Shri Ram Dayal, do not appear to have ~~made~~ any claim, perhaps for the reason that they have crossed age of 25 years.

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8. So the O.A. is finally disposed of with a direction to the respondent NO.2, to ensure that share of the applicant in the amounts mentioned in the succession certificate goes to her, (if it has not already been paid) within a period of two months, from the date a certified copy of this order is produced before him, and also to ensure that amount of family pension is paid to her as per Rules, from the date, the same became payable and is regularly paid in future. To the extent mentioned above, letter dated 26.7.2006 (Annexure A-1) will stand quashed.

No costs.

Imra
26.7.07

Vice-Chairman

Manish/-