

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A/311/1993

Date of Decision : 31.07.2001

Mr. Amit T. Dave : Petitioner (s)

Mr. K. K. Shah : Advocate for the Applicant (s)

Versus

Union of India & Ors. : Respondents(s)

Mr. P. K. Handa & : Advocate for the respondent [s]
Mr. S. S. Chaturvedi for R-3.

CORAM :

THE HON'BLE MR. A. S. SANGHVI : MEMBER [J]

THE HON'BLE MR. G. C. SRIVASTAVA : MEMBER [A]

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Mr. Amit T. Dave
Residing at Kakarikhad Chora,
Nadiad, Dist : Kheda.

- Applicant -

Advocate : Mr. K. K. Shah

Versus

1. Union of India,
Notice to be served through
Western Railway, Headquarter Office,
Church gate, Bombay - 400 020.
2. Divisional Railway Manager (E),
Divisional Office,
Pratapnagar, Baroda.
3. Hemlata Ben, to be served through,
Respondent no.2,
W/o. H. C. Dave,
C/o. Kannaiyalal M. Trivedi,
Salatwader, Haribhakti Nichali,
Opp. M. C. High School,
Baroda.

- Respondents -

**Advocate : Mr. P. K. Handa &
Ms. S. S. Chaturvedi for R-3.**

**JUDGMENT
O.A 311 of 1993**

Date : 31/07/2001

Per Hon'ble Shri. A. S. Sanghvi : Member (J).

This O.A is filed by the applicant who claims to be the heir of the deceased Harishkrishna Chunilal Dave, a Railway employee who died on 7.12.1988, for direction to the Railways to make the payment of retirement & pensionary benefits of the deceased Dave

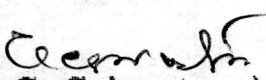
to him. According to him, he is the nephew of the deceased H. C. Dave who has died on 7.12.88 and that he had, after the death of Mr. Dave, claimed the retirement dues of Mr. Dave. The Railway authorities had however asked him to produce the succession certificate as according to the Railway authorities the respondent no.3 was claiming to be the widow of the deceased and was also claiming the retirement dues. According to the applicant, in view of the advise of the Railway authorities he had obtained the succession certificate of the properties of the deceased Dave and had submitted the same to the Railway authorities but the Railway authorities had informed that they had already made payment of some retirement dues to the respondent no.3. He has therefore prayed that the respondents-Railway authorities be directed to make the payment of the retirement and pensionary benefits of deceased H.C. Dave to him with 24 % interest thereof.

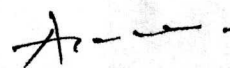
2. The respondents have resisted this O.A and the official respondent i.e., the Railway authorities in their reply have stated that the applicant was paid the amount of P.F due to nomination made by deceased H. C. Dave but other retirement benefits were not paid due to non production of the succession certificate. The respondent no.3, Hemlataben, the widow of H. C. Dave had also preferred the claim of retirement benefits and since she was the widow she was paid the retirement benefits. The applicant was informed by the Railways that the settlement dues were paid to the legal heir of the deceased employee as per extent rules and since Mrs. Hemlataben was the legal wife of Mr. H.C. Dave, the dues were

paid to her and the statement was executed by her. According to them, DCRG, Leave Encashment and Family Pension has been arranged to her except the amount of P.F. They have also stated that the applicant was advised that he may institute legal proceeding against Smt. Hemlataben, if he so desires. They have also contended that the amount of retirement dues were paid to Hemlataben only after verifying all the facts on the basis of marriage certificate as well as succession certificate produced by her.

3. The respondent no.3 in her reply has stated that she was legally married to deceased H. C. Dave and that after his death on 7.12.88 she had approached the department for settlement of dues being legal heir of the deceased employee. The applicant has also made a representation claiming the legitimate dues of the deceased employee and hence the Railway had asked them to bring the succession certificate. According to her, she had submitted the succession certificate as well as the marriage certificate on 6.1.71 and only thereafter she was paid the retirement dues except P.F. as there was a nomination of the applicant in the P.F. She has denied that the applicant is the legal heir of the deceased employee and has contended that she being the widow of the deceased employee was entitled to inherit the properties of the deceased employee. She has also stated that she has applied for compassionate appointment and the same has been given to her after full verification and at present she is working as Khalasi.

4. We have heard the learned advocates of both the parties. Though Mr. K. K. Shah for the applicant has maintained that this Tribunal has jurisdiction to entertain and try this O.A and seeks direction against the Railways to make the payment of the retirement dues to the applicant, we are of the considered opinion that this Tribunal is not competent to interfere in the disputes between the two claimants of the property of a deceased employee. The applicant claims to be the legal heir of the deceased employee and claims that he has obtained succession certificate of the property of the deceased employee and therefore he can be paid the retirement dues of the deceased employee. On the other hand, the respondent no.3 claims to be the widow of the deceased employee and also claims to have obtained the succession certificate of the property of the deceased employee. In fact, the Railways have already made the payment of the retirement dues to the widow of the deceased employee on the basis of the succession certificate and the marriage certificate produced by her. Since the Railways had already resolved the dispute between the parties, we cannot enter into the arena and direct the Railway to make the payment of the same to the applicant. It is for the applicant to take appropriate steps if he feels that the wrong payment of the retirement dues is made to the respondent no.3. This is a case for the Civil Court and not for the Tribunal. In our opinion, the O.A is devoid of any merit and the same is therefore rejected with no order as to costs.


(G. C. Srivastava)
Member (A)
Mb


(A. S. Sanghvi)
Member (J)

FORM NO. 21
(See, Rule, 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

OA/TA/RA/CP/ 311/93

Mr. A. T. Dave APPLICANT (s)

VERSUS

U.C.I. & Es. RESPONDENT (s)

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C. Patel

10 pages

Certified that the file is complete in all aspect

C. Patel
27/9/01
Signature of S.O. (J)

[Signature]
Signature of
Dealing Hand