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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

ORIGINAL APPLICATION No.182 OF 1987.

Date of decision : December 10, 1987.

Srimati Satyabhama Rayguru,
aged about 64 years,
W/o late H.K.Rayguru,
Premnagar IIInd Lane,
Berhampur, District-Ganjam. ...

Applicant.

Versus

1. Union of India represented by the Postmaster General, Orissa Circle, Bhubaneswar, District-Puri.
2. Deputy Director of Accounts (Postal), Cuttack-5.
3. Senior Superintendent of Post Offices, Berhampur (Gm) East Division, Berhampur, District-Ganjam-760005.
4. Superintendent of Post Offices, Bolangir Division, Bolangir-767001.
... Respondents.

For the applicant ... M/s.P.V.Ramdas, & B.K.Panda,
Advocates.

For the Respondents ... Mr.A.B.Mishra, Senior Standing Counsel
(Central)

C O R A M :

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.K.P.ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *Yes*.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

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K.P.ACHARYA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant claims all the pensionary benefits to be paid to her being the legally married wife of one H.K.Rayguru. The entire money not having been paid to the applicant, she has come up before this Bench with the aforesaid prayer.

2. Shortly stated, the case of the applicant is that she was the legally married wife of one H.K.Rayguru who was serving in the Postal Department as Postal Assistant. Harekrishna retired on 4.3.1961 and ultimately breathed his last on 30.7.1983. The retirement pensionary benefit etc. including yet the family pension has not/been paid to the applicant over which the applicant claimed the full amount. Such amount was not paid to the applicant on the ground that Harekrishna had another wife namely Saraswati who had also made an application to the Departmental authorities for paying her 50 per cent of the family pension etc. Due to this adverse order passed against the applicant, she prays before this Bench for interference.

3. In their counter, the respondents maintained that Harekrishna had married on two occasions, once to the present applicant Satyabhama and thereafter he got himself married ⁶ with Saraswati and therefore, it was thought just, proper and equitable under law that both the wives should be paid family pension in equal halves. According to the respondents, there being no merit in the petition, it is liable to be dismissed.

4. We have heard Mr. P.V. Ramdas, learned counsel for the

applicant and Mr.A.B.Mishra, learned Senior Standing Counsel (Central) at some length. Before we deal with the contentions put forward at the Bar it would be worthwhile to state succinctly the history of this case. There is no dispute that the applicant Satyabhama is the legally married wife of Hari Krishna and she had married prior to the alleged marriage with Saraswati. Soon after Hari Krishna came in contact with Saraswati - be it by a marital tie, concubinage - Satyabhama was said to have been neglected and deserted. Satyabhama filed a suit which was registered as T.S.13 of 1959 after an application under Order XXXIII Rule 1 of the Code of Civil Procedure, 1908, *forma pauperis* was allowed in the Court of the Subordinate Judge, Berhampur. Title Suit No.13 of 1959 was decreed *ex parte* against Hari Krishna in which Satyabhama was the plaintiff. In the decree learned Subordinate Judge, Berhampur granted maintenance of Rs.60/- per month in favour of Satyabhama under the Hindu Adoption and Maintenance Act. Later, after the death of Hari Krishna the rival claimants to the family pension have come up and this Bench is required to determine as to who is legally entitled to the family pension - Whether Satyabhama would get the entire amount or it should be divided into equal halves between Satyabhama and Saraswati. For the purpose of just decision of this case, it should be remembered that the Hindu Marriage Act came into force on 18th May, 1955. Section 17 of the said Act postulates that any second marriage of a Hindu while the first spouse is alive, is a void marriage. Eventually, if the marriage of Saraswati with Hari Krishna has been solemnised on or after 18th May, 1955, without least hesitation

it should be said that the marriage is ab initio void and Saraswati is not entitled to any amount. If the marriage has been solemnised with Saraswati on or before 17th May, 1955, undoubtedly Saraswati and Satyabhama are entitled to the family pension in two equal halves. Unfortunately neither in the petition nor in the counter we find any date to have been given relating to the solemnisation of marriage between Hari Krishna and Saraswati, even though it is averred in the counter that the Postal authorities had made an enquiry regarding the solemnisation of marriage between Hari Krishna and Saraswati and the departmental authorities are convinced that marriage had been solemnised between Hari Krishna and Saraswati. In our opinion, the result of the enquiry that marriage has been solemnised between Hari Krishna and Saraswati is not enough. The pertinent question which would determine the fate of the case is the crucial date of marriage between Hari Krishna and Saraswati. In such circumstances, we would direct that further enquiry should be made by the appropriate authority to fix the date of marriage between Hari Krishna and Saraswati. In such circumstances, we would request the Postmaster General, Orissa Circle who is Respondent No.1 in this case to cause an enquiry through one of his responsible officers (whom he chooses) and determine the crucial date of marriage and after determination, family pension should be paid accordingly to the wife/ wives entitled to it as indicated above. We hope and trust the enquiry shall be completed and the date would be determined within four months from the date of receipt of a copy of this judgment by the Postmaster General, Orissa and

after the date is determined and the Postmaster General gives a final decision in the matter the financial benefits should be given to the lady/ladies entitled to the same within two months therefrom.

5. Thus, this application is accordingly disposed of leaving the parties to bear their own costs.

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Member (Judicial)
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10.12.87.

B.R.PATEL, VICE-CHAIRMAN,

I agree.

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Vice-Chairman
10.12.87.



Central Administrative Tribunal,
Cuttack Bench, Cuttack.
December 10, 1987/S. Sarangi.