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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 338 of 1991.

Date of decision: November 4, 1991.

Nayana Dei ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... Mr. U.C. Mohanty, Advocate.

For the respondents ... Mr. L. Mohapatra,
Standing Counsel (Railways)

C O R A M.

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *ND*
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes.

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...

JUDGMENT

K. P. ACHARYA, V.C., In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to direct the respondents to pay to the applicant the pending dues to the extent of Rs. 91,906.48 paise with interest from January, 1991.

2. Shortly stated, the case of the applicant, Smt. Nayana Dei is that she is the widow of late Panu Parida @ Gochhayat who died in harness while working on duty, on 24.9.1986 as Gangman No. 46 under the P.W.I. The applicant had once moved this Bench for giving appropriate directions to the respondents for disbursing of this amount which formed subject matter of O.A.29 of 1990 and this application was dismissed subject to the observation that the Railway authorities should pay to the appropriate legal representative who would obtain a succession certificate entitling him/her to this amount. The further case of the applicant is that a succession certificate has been granted in favour of the

present applicant by learned Subordinate Judge, First Court, Cuttack in Misc. Case No. 39 of 1990 which formed subject matter of Annexure-2. The grievance of the applicant in the present original application is that despite the fact that the applicant filed this succession certificate before the competent authority, payment was refused to the applicant on the ground that the brother of the late Pany/Parida @ Gochhayat has sent a notice through ^a lawyer to the concerned authority that the said Nayana Dei is not the legally married wife of late Panu Parida and therefore she should not be paid the amount claimed by her. Being aggrieved by the inaction of the concerned authority in not making payment to the applicant because of the aforesaid objection raised by the brother of late Panu Parida, the applicant Nayana Dei has filed this application with the aforesaid prayer.

3. In their counter, the respondents maintained that provident fund dues were paid to Nayana Dei as she had been nominated by Panu, being the husband of Nayana. In paragraph 5 of the counter the respondents reiterate their stand that due to the objection received from the brother of Pany, through a pleader, the matter was enquired into by the Welfare Inspector who had recorded the statements of two co-villagers and they stated that Nayana Dei was not the legally married wife of the late Panu Parida and hence the amount claimed by the applicant has not been paid.

4. After hearing Mr. U.C. Mohanty, learned counsel for the applicant on the question of admission, I did not

think it worthwhile to keep the matter pending and allow the matter to linger. Therefore, notice was sent to the respondents on the question of admission and hearing. Counter, to the above effect has been filed on behalf of the respondents.

5. I have heard Mr. U.C. Mohanty, learned counsel for the applicant and Mr. L. Mohapatra, learned Standing Counsel (Railways) for the respondents. The fact that the applicant Nayana Dei has obtained a succession certificate in her favour in connection with Misc. Case No. 39 of 1990 is not disputed. Learned Subordinate Judge granted the certificate in favour of Smt. Mayana Dei, Aml Parida and Tukuna Parida and furthermore permitted Smt. Nayana Dei, the wife of late Panu Parida @ Gochhayat to withdraw/receive the amount including interest as claimed in succession certificate. It is presumed that this order of the learned Subordinate Judge would have been passed after the notice would have been issued inviting objections and objections, if any, received must have been considered by the learned Subordinate Judge and thereafter the succession certificate has been granted. Undisputedly, the question of law is that a decree passed by a Civil Court must be respected. Therefore, neither this Bench nor any administrative authority has the right to disrespect a decree passed by a competent Civil Court. During course of argument Mr. Mohapatra, learned Standing Counsel for the Railway Administration rightly, could not challenge the decree passed by the learned Subordinate Judge but Mr. Mohapatra submitted that the concerned authority did not make any payment because of a bonafide

belief and in good faith that money should be disbursed in view of the pleader's notice having been received by the said authority. I have no disagreement with Mr. Mohapatra and I do not find any fault with the concerned authority who has not yet paid the amount to the applicant but without least hesitation in my mind I would hold that Nayana Dei is entitled to the amount claimed by him in view of the terms and conditions laid down in the succession certificate forming subject matter of Annexure-2 and without any further delay she should be paid the amount claimed by her by the appropriate authority. It is therefore directed that the amount be paid to the applicant, Nayana Dei, wife of late Panu Parida @ Gochhayat within 60 days from the date of receipt of a copy of this judgment failing which the concerned authority will be liable to pay penal interest from his own pocket.

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

Legislative Affairs
4-24-91
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November 4, 1991/Sarangi.