

7

2

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.495 of 1991

Read with

Misc.Application No. 47 of 1993

Mrs.P.A.M.Satyabati Das

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s.D.S.Misra
S.Mohanty
S.Behera,
Advocates

For the respondents

Mr.Ashok Mohanty,
Standing Counsel
(Rly.Administration)

For the intervenor

M/s.Devanand Misra,
Deepak Misra,
A.Deo,R.N.Naik,
B.S.Tripathy,
Advocates

...

C O R A M:

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

...

1. Whether the reporters of local newspapers may be allowed to see the judgment ? Yes
2. To be referred to reporters or not ? /X
3. Whether His Lordship wishes to see the fair copy of the judgment ? Yes

...

JUDGMENT

MR. K. P. ACHARYA, VICE-CHAIRMAN, In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner Mrs. P. A. M. S. Das prays for a declaration that she is entitled to the pensionary benefits of her husband since her husband is not to be heard for more than 7 years and therefore the presumption under the Evidence Act should be drawn that her husband is dead. In addition to the above, next prayer of the petitioner is that Annexure-1 containing the order retiring Mr. P. A. M. S. Das should be quashed.

2. After hearing Mr. D. S. Mishra, learned counsel for the petitioner and Mr. Ashok Mohanty, learned Standing Counsel and Mr. B. S. Tripathy, learned counsel appearing for the intervenor i.e. Mr. P. A. M. S. Das, I am of opinion that this application is not maintainable. Mr. and Mrs. P. A. M. S. Das have personally appeared before this Court to-day. There is no dispute presented before me that the male person who has personally appeared before this Court to-day is not Mr. P. A. M. S. Das. On the contrary Mrs. Das admitted that the male person presented in the Court is nobody else but ^{her husband} Mr. P. A. M. S. Das. In such a situation presumption cannot be drawn that Mr. P. A. M. S. Das is dead; and therefore Mrs. Das cannot be made entitled to the pensionary benefits at this stage when her husband is verymuch living.

3. As regards prayer of the petitioner Mrs. Das that Annexure-1 should be quashed, she has no locus standi to make such a prayer when Mr. Das is verymuch living and has not felt aggrieved by the order contained in Annexure-1. Therefore, on this account prayer of Mrs. Das is not maintainable.

4. In view of the aforesaid facts and circumstances

I find no merits in this petition which stands dismissed leaving the parties to bear their own cost.

5. No further orders are necessary in the Miscellaneous Application as this judgment will govern Misc. application No. 47 of 1993.

[Signature]
19.4.93
VICE-CHAIRMAN

Central Administrative Tribunal
Cuttack Bench, Cuttack
dated the 19.4.1993/B.K.Sahoo

